

## Supplementary Information – Agenda Item 5



<b>REPORT OF:</b>	HEAD OF NEIGHBOURHOOD OPERATIONS
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<b>TO:</b>	LICENSING & REGULATORY COMMITTEE
<b>DATE:</b>	

<b>AGENDA ITEM NO:</b>	5	<b>WARD(S) AFFECTED:</b>	ALL
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<b>SUBJECT:</b>	APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE
<b>PURPOSE OF THE REPORT:</b>	TO DETERMINE WHETHER A MOTOR TRICYCLE IS SUITABLE TO BE LICENSED AS A PRIVATE HIRE VEHICLE

### OPTIONS

The Committee has the following options:

- 1. To grant the licence subject to such conditions as are consistent with the safe operating of the vehicle that ensure the safety of the fee-paying public.**
- 2. To reject the application.**

The Committee has authority to determine the above options.

### Supplementary information for hearing

The applicant, Mr. Martin Ordish in response to receiving a copy of the committee report, has sent an email asking some questions. As both the Committee and Mr Ordish will be interested in the responses, I have answered the relevant questions below as a supplement to the report. For clarity I have numbered the questions 1 to 6 and highlighted them in italic writing. The answers are below each question.

- 1. Q 'Not sure how significant the transmission details are but the motor tricycle has automatic transmission and therefore does not have a manual clutch; the V5 lists the vehicle as a tricycle and not a car.'*

A. The vehicle description was a generic example of the type of vehicle.

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2. Q *'In 2018, Whatcar reported that tyre maker Continental, recorded that motorists typically suffer a puncture every 44,000 miles, highlighting the very rare occurrence when a spare wheel might be necessary. A Whatcar survey, reviewing new vehicles and the provision of spare tyres, identified that 55% of manufacturers do not provide a spare wheel of any description, relying on the use of roadside tyre repair kits. Our motor tricycle is equipped with a tyre repair kit and we have roadside recovery cover, provided by the RAC. The safety and comfort of our customers is paramount, and we would provide return transportation, to a place of their choice, at our expense.'*

A. The 'Private Hire Vehicles, Drivers and Operators '(February 2018) conditions requires that:

Spare wheel; the vehicle must safety carry a spare wheel or temporary spare wheel in good working order and tools to change a wheel in the event of a puncture (with the equipment meeting the manufacturer's approved specification). A temporary spare wheel shall only be used to complete the current journey and shall be replaced with a standard wheel before a subsequent hiring.

There are no current plans to change this requirement for any vehicle registered as a private hire vehicle in Reigate and Banstead.

3. Q *'As our vehicle is not a motorcycle or car, is it considered as "other" under the legislation or does this legislation not apply?' (Initially unable to answer question as reference to legislation was not clear)*

A. Email received 23 January 2022 in which Mr Ordish explained his enquiry in question 3. This information was sent by email to Mr Ordish 24 January 2022.

'The licensing of Private Hire and Hackney Carriage Vehicles is controlled by various legislation, notably the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. This legislation also places a responsibility on the operators of these vehicles, with regards to providing services to all sectors of the borough's community '

The use of 'these vehicles' in this context is referring to any vehicle that is licenced as a private hire vehicle (or Hackney Carriage vehicle). And that would include your trike should the Committee decide to licence it as a private hire vehicle.

4. Q *'We are unclear what the salient points are in the example, from 2005, of an unsuccessful licence application for a motorcycle which has been included. We would like the example accessed via the following link, to be included on the*

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*grounds that it is entirely pertinent and representative of the licence we are seeking and was granted for a motor tricycle by the same council in 2013;*  
<https://democracy.leeds.gov.uk/ieDecisionDetails.aspx?ID=40298>

*Links to documents, that detail the information on which the decision was based, can be found low down on the page; if you would like hard copies of any of this information, we can provide them. Motor tricycles have also been licensed in other countries of the UK. This link includes information on the decision to licence a motor tricycle by Orkney Council as an example.*  
[https://www.orkney.gov.uk/Files/Law-and-Licensing/Licences/Taxis-and-Private-Hire-Cars/Operators/Motorised Tricycle Private Hire Car Operator Conditions.pdf](https://www.orkney.gov.uk/Files/Law-and-Licensing/Licences/Taxis-and-Private-Hire-Cars/Operators/Motorised%20Tricycle%20Private%20Hire%20Car%20Operator%20Conditions.pdf)

- A. The case of Leeds City Council v Chauffeur Bikes Ltd [2006] R.T.R. 7 was included in the report as it contains salient points and because as a reported case it constitutes a legal precedent. The case highlights the fact that, although a vehicle may be considered safe in itself. It does not necessarily mean that under the Local Government (Miscellaneous Provisions) Act 1976 a licensing authority would consider that the vehicle was safe or appropriate for use as a private hire vehicle.

Although we noted the decision by Leeds City Council to licence a motor trike, it is not relevant to this hearing for 2 reasons. A) Leeds City Council did not have regard to the requirements of the Equalities Act 2010, which was not mentioned in their committee report. B) Reigate and Banstead Borough Council, in making any decision regarding the licensing of a Private Hire or Hackney Carriage vehicle, are not bound by any decision made by another licensing authority. Decisions made by other authorities are made on their own facts and do not constitute legal precedents. As such the decision by Leeds City Council has no bearing on the hearing.

As pointed out by Mr Ordish, the Orkney Islands are in Scotland. Vehicles licensed for private hire operation in Scotland are licensed under different legislation (Civic Government (Scotland) Act 1982). As such any decision or licence issued by a Scottish authority is not relevant to considerations of licensing in England.

5. *Q. Surrey and Sussex Trikes are not providing a drop off service for users. Our journeys are round trips from A to A and there is no requirement for users to exit the vehicle during the service. However at the time of booking, we clarify whether the presence of an assistance dog or mobility aid, would be required at our pre-arranged stops. If this is necessary, our support vehicle would deliver these again, at our expense. Passengers requiring this service would not be subject to higher charges.*

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- A. Whilst this does address concerns regarding the issues of the safety of dogs and passengers, it overlooks the fact that assistance dogs are used for a variety of reasons. These include dogs that identify when the owner is about to have seizures. The separation of any assistance dog from the owner is not appropriate as they not only carry out important functions but become close companions of the people involved.
6. *Q. There is mention that the vehicle, once licenced, could be operated as a regular PHV. We wish to make clear that we do not want to operate as a regular PHV but as a novelty vehicle.*
- A. Although you may not wish to offer your services as a standard private hire vehicle, it is nevertheless a fact that once licenced under the Local Government (Miscellaneous Provisions) Act 1976, you would be at liberty to do so.