

Public Document Pack



To: Councillor Boulton, Convener; and Councillors Blackman, Corall, Cormie, Forsyth, Grant, Graham, Len Ironside CBE, Kiddie, MacGregor, Malik, Malone, Nathan Morrison, Reynolds and Townson.

Town House,
ABERDEEN 21 January 2013

LICENSING COMMITTEE

The Members of the **LICENSING COMMITTEE** are requested to meet in Committee Room 2 - Town House on **TUESDAY, 29 JANUARY 2013 at 10.00 am.**

JANE G MACEACHRAN
HEAD OF LEGAL AND DEMOCRATIC SERVICES

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Website: www.aberdeencity.gov.uk

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<http://committees.aberdeencity.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13012&path=13004>

Should you require any further information about this agenda, please contact Mark Masson,
tel. 52(2989) or e-mail mmasson@aberdeencity.gov.uk

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Licensing - Fwd: Public Entertainment Licence Dyce Parish Church

From: Licensing
To: [REDACTED]
Date: 10/10/2012 15:50
Subject: Fwd: Public Entertainment Licence Dyce Parish Church
Attachments: Raymond Morrison.vcf

I refer to your application for a public entertainment licence. I have received the undernoted comments from Environmental Health.

Can you please advise me when the matters highlighted have been attended to so that the licence can be granted.

Regards

Arlene Dunbar

Licensing
Legal and Democratic Services
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Business Hub 6 L1S
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>>> Raymond Morrison 28/08/2012 08:35 >>>

I refer to the above and comment as follows;

Whilst having no objection to the granting of the licence I would ask that the following be attended to.

- 1) At the time of the inspection the Residual Current Device (RCD) Sockets within the hall were not working. This double RCD socket requires to be replaced.
- 2) The nosings on the steps to the raised area should have a contrasting coloured tape or similar fitted to assist people with sight impairment.

Regards

Raymond Morrison
Senior Authorised
Licensing Standards Officer
Environmental Health and Trading Standards

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Licensing - Public Entertainment Licence - Dyce Parish Church

From: Licensing
To: [REDACTED]
Date: 28/11/2012 10:26
Subject: Public Entertainment Licence - Dyce Parish Church

Dear Sirs

I refer to my email of 10 October 2012 and note that we have not received a response.

Please confirm that the Residual Current Device sockets within the hall are now in working order and that contrasting coloured tape has been fitted to the nosings on the steps to the raised area.

Please note that if we do not receive a response. The application will be considered by the Licensing Committee on 29 January 2012.

Regards

Arlene Dunbar

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Agenda Item 3.8

From: EHlicence
To: LicensingCommittee.ACCPO1.ACCDOM1@aberdeencity.gov.uk
Date: 20/09/2012 08:45
Subject: Re: LC - Theatre Westpark School
Place: LicensingCommittee.ACCPO1.ACCDOM1@aberdeencity.gov.uk

Theatre Act 1968
Renewal of Licence
At: Westpark School, Cruden Crescent Aberdeen

I refer to the above and can say that in so far as my duties are concerned I have no objection to above the above licence.

However at the time of the visit no up to date certification was available for viewing in regard to the stage overhead lighting gantry or supports

Regards

Raymond Morrison

>>> LicensingCommittee 17/09/2012 10:22 >>>

I refer to the above application which was lodged on 28/6/2012

I note that you had not respond to it and should be grateful for a response asap.

Regards

Bill

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From: Raymond Morrison
To: Westpark
CC: Bill Gordon; LicensingCommittee
Date: 15/01/2013 11:14
Subject: Theatre Licence
Attachments: Raymond Morrison.vcf

FAO Kelly Zebedee

Hi Kelly I refer to the above and your Fax / Letter regarding the inspection report on the overhead lighting supports etc.

I tried to contact John Brown / John Muirhead both of whom used to be involved with the works carried out within schools but to no avail their details appear to have been disabled within the search system available to me.

I have looked at the previous report which was valid till November 2012 and noted that although the majority of the items identified were indicated as to be for your own consideration as to the extent of repair or other maintenance work to be carried out the bottom three items do indicate that remedial work should be carried out. I would therefore ask that these items be attended to ASAP.

Also as the expiry date has passed I would also ask that a new examination be undertaken ASAP.

Please note I have cc'd Licensing into this reply.

Regards

Raymond Morrison
Senior Authorised
Licensing Standards Officer
Environmental Health and Trading Standards
Housing and Environment
Aberdeen City Council
Business Hub 15
Third Floor South
Marischal College
Broad Street
Aberdeen
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email: rmorrison@aberdeencity.gov.uk
Visit Aberdeen City Council's Web Site <http://www.aberdeencity.gov.uk>

(This message is not intended to have contractual effect)
PLEASE DO NOT PRINT THIS E-MAIL UNLESS ABSOLUTELY
NECESSARY

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From: Nicholas Glover
To: LicensingCommittee
CC: Andrew Gilchrist
Date: 25/06/2012 08:59
Subject: Fwd: LC - Skin piercing M Klimkiewicz 65 Victoria Road
Place: LicensingCommittee

Business was visited on 24/4/12. Report left with proprietor detailing matters that required attention. Revisited business on 28/5/12. One item outstanding on previous inspection report. This relates to inspection of a steam steriliser. The proprietor is currently arranging an inspection and I am waiting for conformation of its completion.

Nick Glover
Environmental Health Officer
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Housing and Environment
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Please do not print this e- mail unless absolutely necessary.

>>> Andrew Gilchrist 22/06/2012 12:30 >>>

Andrew Gilchrist
Principal Environmental Health Officer
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Housing and Environment
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>>> LicensingCommittee 20/06/2012 15:29 >>>

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From: karen sim [REDACTED]
To: "licensing@aberdeencity.gov.uk" <licensing@aberdeencity.gov.uk>
Date: 20/12/2012 18:56
Subject: RE: Street Trader Application

Hi, sorry i just saw your email yes those details are all correct and i am aware of all comments as for york street and crawpeel road yes the van would be in parking layby and crawpeel road is not located opposite any business entrance ,

hope this is what u require

regards

karen sim

Date: Mon, 17 Dec 2012 14:08:58 +0000
From: Licensing@aberdeencity.gov.uk
To: karen_sim@hotmail.co.uk
Subject: Street Trader Application

Hi Karen,

Please see below the comments from the Roads department. Please can you provide a response by Thursday 20th December 2012.

I have looked at the above application and have noticed that it relates to three separate locations within the application.

Although the Roads Authority would not object to any of the locations I would wish to make the following minor comments:

1. York Street - No problems with this one assuming the burger van is located within the lay-by.
2. Beach Esplanade - Just East of New Pier Road. - Once again no problem provided the burger van is not situated directly outside the toilet block. I would have thought that given the gradient of the road that it would be better placed on the flat straight section further North.
3. Crawpeel Road - Although limited details were provided regarding the actual location. Provided that its not located opposite the entrance to a business or causing a visibility issue at any adjacent access points then it would be acceptable.

Regards

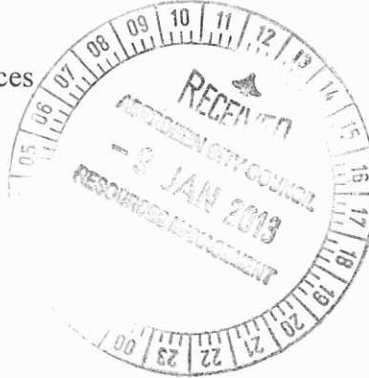
Doug

Doug Ritchie

Team Leader
Traffic Management Team
Enterprise Planning & Infrastructure.
74 - 76 Spring Garden.
Aberdeen.

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Jane G MacEachran
Head of Legal & Democratic Services
Litigation & Licensing
Aberdeen City Council
Business Hub 6 L1S
Marischal College
Aberdeen AB10 1AB



9th January 2013
GF/Mc510

Dear Madam

Aberdeen City Council Licensing Committee
Section 39 Civic Government (Scotland) Act 1982
Street Traders' Licences
Your Ref: 0296/pclet-StTdrsLicVar

We act on behalf of Walter McDonald, [REDACTED]
[REDACTED] who has in total traded for 48 years as a Hot Food Van Trader and for 43 years held a licence for street trading at certain areas of the City.

We understand from Mr McDonald that a notice was placed in the local Press on 12th December 2012 (copy attached) notifying that an application has been made by Karen Sim, 131 Greig Court, Aberdeen, AB25 1FD for a Licence to operate a Hot Food station at York Street, Beach Esplanade and Crawpeel Road within the hours of 7am to 2pm, Monday to Saturday.

Please accept this letter as a formal objection by Mr McDonald against this application on the grounds that he has a licence to operate at York Street and the granting of the licence to Karen Sim will impinge on his site and his earning capacity.

Mr McDonald's Licence Number is 019.

Yours faithfully
For and on behalf of
Fyfe Moir & Associates

Graham Fyfe

Signed Walter McDonald... [REDACTED]

**ABERDEEN CITY COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982
LICENSING OF STREET TRADERS WHO OPERATE
A HOT FOOD SERVICE**

The undernoted applications have been submitted to Aberdeen City Council as licensing authority for Aberdeen City in terms of the above Act. The said application(s) can be inspected at Marischal College, Broad Street, Aberdeen between the hours of 9:00am and 5:00pm Mondays to Fridays.

Applicant(s): Karen Sim, 131 Greig Court, Aberdeen. AB25 1FD.

Trade: Hot Food.

Locations: (1) York Street, north side, 202 metres south east of its junction with York Place.

(2) Beach Esplanade, 30 metres east of junction with New Pier Road.

(3) Crawpeel Road, west side, 400 metres south of Hareness Road.

Trading Hours: Monday to Saturday 7am to 2pm.

In terms of Paragraph 3, Schedule 1 of the Civic Government (Scotland) Act 1982 any objection or representation relating to the above application must:

- (1) be in writing;
- (2) specify the grounds of the objection or the nature of the representation;
- (3) specify the name and address of the person making it;
- (4) be signed by them or on their behalf;
- (5) be made to me no later than Wednesday, 9 January 2013; and
- (6) be posted to the undernoted address

Jane G MacEachran, Head of Legal and Democratic Services
Litigation and Licensing, Legal and Democratic Services, Corporate Governance,
Aberdeen City Council, Business Hub 6 L1S, Marischal College, Aberdeen AB10 1AB



GRAMPIAN
P · O · L · I · C · E

Keeping our communities safe



Roads Policing Department
Nelson Street
Aberdeen
AB24 5EQ

Our Ref: RPD 212 - 2012/13

Your Ref:

Date: 8 January 2013

Tel: 01224 489300

Fax: 01224 491842

Keith.Middler@grampian.pnn.police.uk

www.grampian.police.uk

The Licensing Team
Legal and Democratic Services
Corporate Governance
Aberdeen City Council
Business Hub 6 L1S
Marischal College
Aberdeen
AB10 1AQ

FOR THE ATTENTION OF MR ERIC ANDERSON

Dear Mr Anderson

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – LICENSING OF TAXIS AND PRIVATE HIRE CARS AND DRIVERS – OBSERVATION TO THE GRANT OF TAXI DRIVER'S LICENCE – DOUGLAS THOMSON

I refer to the above application which was lodged on 17 August 2012 and wish to bring to the Committee's notice the following circumstances concerning the application.

This application requires to be dealt with by 16 February 2013 to prevent it becoming a 'deemed grant'. The date for the next Committee meeting after 29 January 2013 is 26 March 2013.

Mr Thomson sat and failed his street knowledge test on 18 October 2012. He was then due to sit it again on 13 December 2012 but he failed to appear.

This report is submitted to the Committee for any action they deem appropriate.

Yours faithfully,

Kevin Wallace
Roads Policing Inspector

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ABERDEEN CITY COUNCIL

COMMITTEE: Licensing

DATE: 29 January 2013

DIRECTOR: Stewart Carruth

TITLE OF REPORT: Variation of Taxi and Private Hire Drivers' Licence Conditions - Statutory Updates in respect of Medical Exemptions

REPORT NUMBER: CG/13/014

1. PURPOSE OF REPORT

The purpose of the report is to propose necessary legislative updates to:

- a. The Conditions Applicable to Taxi Drivers' Licences (see appendix 1); and
- b. The Conditions Applicable to Private Hire Car Drivers' Licences (see appendix 2).

2. RECOMMENDATION(S)

That the Licensing Committee:

- a. endorse in principle the proposed amendments to the conditions;
- b. instruct officers to carry out the statutory variation procedure; and
- c. report back to the Committee to finalise the procedure.

3. FINANCIAL IMPLICATIONS

None.

4. OTHER IMPLICATIONS

The legal implications are that it is necessary to amend the conditions in order that they are consistent with current disability legislative requirements.

The amendments should assist with clarifying the position in relation to drivers' medical exemptions.

5. BACKGROUND/MAIN ISSUES

Ensuring that the taxi and private hire driver's conditions are up to date with regard to disability legislation shall assist the Committee (and the Council) in meeting its public sector equality duty.

a. Requirement to Carry Wheelchair Passengers

The change to conditions (condition 20 taxis) and (condition 19 private hire) is to clarify the terms of accessible vehicle drivers' medical exemptions in respect of their duties to wheelchair passengers.

This amendment also explains that a medical exemption certificate must be displayed on the vehicle, which means that potential wheelchair passengers should be able to see whether or not a driver has an exemption.

Currently there are no accessible vehicles in the private hire fleet but medical exemptions apply to accessible private hire cars as well as taxis therefore the legal position requires to be reflected in the private hire conditions.

b. Requirement to Carry Assistance Dogs

The references in the drivers' conditions (condition 30 taxis) and (condition 26 private hire) to "The Taxi Drivers' Licences (carrying of Guide Dogs and Hearing Dogs (Scotland) Regulations 2002" have been superseded by:

- i. "The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003"; and
- ii. "The Private Hire Car Drivers' Licences (Carrying) of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2004".

Therefore the conditions require to be revised to accurately reflect the up to date legal position.

These amendments will also clarify the terms of the requirement to carry an assistance dog and of any medical exemption from that duty.

c. Miscellaneous Amendments

The following minor amendments have also been proposed:

- i. inclusion of an interpretation section in order to clarify the meaning of various terms. This information is already provided in corresponding taxi licence and private hire licence conditions and should be provided for consistent interpretation of the equivalent drivers' conditions;

- ii. addition of part of a missing sentence at condition 7 of the conditions applicable to private hire car licences; and
- iii. amendments to numbering and formatting in order to improve the presentation of the documents.

If the Committee endorses the amendments in principle officers shall carry out the statutory variation procedure, which involves consultation by letter with all licence holders concerned. Licence holders shall have the opportunity of submitting comments.

Thereafter the Committee will be presented with a further report in respect of the amendments. The Committee would hear from any licence holders who submitted comments and take a final decision on whether or not to introduce the variation to the conditions.

6. IMPACT

Corporate - The amendments to the conditions support the Council's statutory obligation to assess and review its policies and practices in terms of the public sector equality duty.

Public - This may be of interest to: wheelchair passengers; passengers with assistance dogs; and taxi and private hire car drivers.

Equality and Human Rights Impact Assessment - The attached Equality and Human Rights Impact Assessment (EHRIA) considered the impact of the proposal on the equality strands (see appendix 3).

7. BACKGROUND PAPERS

- The Equality Act 2010
- The Disability Discrimination Act 1995
- The Taxi Drivers' Licences (carrying of Guide Dogs and Hearing Dogs (Scotland) Regulations 2002
- The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003
- The Private Hire Car Drivers' Licences (Carrying) of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2004

8. REPORT AUTHOR DETAILS

Paul M Connolly
Solicitor (Licensing Team)

Direct Dial: 01224 522357

Email: pconnolly@aberdeencity.gov.uk

Appendix 1 (Amendments underlined)

CONDITIONS APPLICABLE TO TAXI DRIVERS' LICENCES

Subject to the foregoing, the following words or phrases shall have the meanings set out below: -

"licensed area" means the area of The City of Aberdeen;

"licensing authority" means Aberdeen City Council;

"luggage" includes all items which the hirer or passenger wishes to be carried in the vehicle, whether his own personal baggage for the journey, or being carried for business or otherwise, and shall also include animals or pets which reasonably may be accommodated within the vehicle;

"exclusive", as applied to the hire of a taxi, means that a single fare is payable by any one passenger for the whole hire of the taxi, whether or not more than one passenger is carried; and "exclusive hire" shall be construed accordingly;

"shared", as applied to the hire of a taxi, means that each passenger is carried at a separate fare, payable to the driver; and "shared hire" shall be construed accordingly; and

"taxi-bus" means a taxi which is being used, under a special licence granted under section 12 of the Transport Act 1985, to provide a local service which is or requires to be registered under Part I of that Act, has been previously advertised and which has a destination and route which are not entirely at the discretion of the passengers.

1. The driver of a taxi shall at all times while he is acting as such have with him the taxi drivers' licence, badge of identification and identity card issued by the licensing authority. He shall exhibit such licence on demand to any passenger, Constable or authorised officer of the licensing authority and shall display such identity card clearly within the passenger compartment of his vehicle. The badge of identification and identity card issued by the licensing authority shall each include a recent photograph showing a true likeness of the driver and he shall display his badge of identification at all times while so acting conspicuously on the outer front, upper portion of his outermost garment with the inscribed side of the badge clearly visible. The licensing authority shall require from the driver of a taxi at the time of issue of his driver's licence or badge of identification or identity card a sum specified by the licensing authority.
2. The driver of a taxi shall NOT: -
 - (a) Permit any other person to use his badge of identification.
 - (b) Wilfully damage his badge of identification.
 - (c) Give, transfer, sell or otherwise dispose of his badge of identification.
3. The driver of a taxi shall immediately report the loss of his badge of identification to the licensing authority.
4. The driver of a taxi shall surrender his badge of identification to the licensing authority within seven days of leaving the trade or of the expiry, suspension, forfeiture, revocation or surrender of his taxi driver's licence.
5. The driver of a taxi shall surrender to the licensing authority a badge of identification, the inscription or photograph on which has become in whole or in part illegible or defaced as the case may be.

6. The driver of a taxi shall be bound to fulfil or cause to be fulfilled at the time and location specified an engagement to hire his taxi which he has accepted.
7. The driver of a taxi shall operate on shared hire only with the consent of the first hirer or passenger even if there is displayed on the taxi a sign or other thing approved by the licensing authority indicating that the taxi is available for shared hire; but he shall not be required to operate on shared hire if no such sign or other thing is displayed on the taxi at the time of the initial hiring.
8. The driver of a taxi which is on exclusive hire may not in any circumstances pick up or convey another passenger without the consent of the original hirer(s) or passenger(s).
9. The driver of a taxi shall not at any time convey in the taxi more than the number of passengers the taxi is licensed to carry.
10. The driver of a taxi which has been hired on exclusive hire shall drive to the destination by the shortest practicable route unless otherwise instructed by the hirer. The driver of a taxi which has been hired on shared hire shall take the shortest practicable route which will serve the destinations of all the passengers whom he is carrying at any one time.
11. The driver of a taxi not being used as a taxi-bus shall if the cost of the journey is not regulated by a licensing authority fare structure inform the hirer(s) or passenger(s) before journey commences (a) that the fare if not so regulated; and (b) of the cost or the method of calculating the cost of the proposed journey.
12. The driver of a taxi shall ensure that any taximeter fitted in the taxi in his charge shall be operated at all times within the licensed area and in accordance with the detailed requirements imposed by the licensing authority.
13. The driver of a taxi shall from time to time and at least once in each day in which he uses the taxi inspect the seals on the taximeter to ensure that they are intact. On discovering that the seals have become broken or damaged or that the taximeter has ceased to function correctly, the driver of a taxi shall immediately withdraw the vehicle for service.
14. Subject to conditions 15 and 16 below, the driver of a taxi shall not refuse to drive a passenger to any place within the licensed area.
15. The driver of a taxi on shared hire may decline to accept a further passenger on the grounds that his intended destination could not be served without an excessive or unreasonable addition to the journey distance of the existing passenger or passengers, or that the further passenger's luggage cannot be accommodated safely within the taxi.
16. The driver of a taxi need not convey any hirer or passenger who is drunk or otherwise not in a fit and proper state to be carried or whose condition of clothing is offensive or likely to cause damage to the interior of the taxi or who refuses to cease smoking in the taxi when requested to do so by the driver or is accompanied by an animal which is likely to damage or soil the interior of the taxi or for any other reasonable excuse as approved by the licensing authority.
- 17.(a) The driver of a taxi, while he is in charge of the taxi shall not park, or stop his taxi, nor canvass or importune for employment within 50 metres of any designated taxi stance.
 - (b) At any time, when any designated taxi rank is closed, the driver of a taxi shall not park, stop his taxi, ply for hire or otherwise canvass or importune for employment at that closed taxi rank.

- 18.(a) The driver of a taxi shall not refuse to carry luggage in his taxi providing the luggage can be accommodated safely within the taxi; and
- (b) The driver of a taxi shall give such assistance to their passengers as they are able to give with loading and unloading their luggage when required to do so but the driver of the taxi will not be required to leave the immediate proximity of the taxi in doing so.
19. Where the taxi has retractable steps, the driver shall operate these as and when required and make reasonable enquiries of passengers, where appropriate, to ascertain this.
- 20.(a) The driver of a designated accessible taxi shall assist wheelchair users into and out of the taxi using the ramp if necessary and shall ensure that they are properly secured by means of the fixed seat belts before starting the journey, but the driver of the taxi will not be required to leave the immediate proximity of the taxi in doing so; and
- (b) The driver of a designated taxi is exempt from compliance with the duties, to carry the passenger while in the wheelchair or if the passenger chooses to sit in a passenger seat, to carry the wheelchair, and otherwise from the duties to assist passengers in wheelchairs in the following circumstances —
- (i) if an exemption certificate issued to the driver is in force, and
 - (ii) if the prescribed notice of the exemption is exhibited on the taxi.

For the purposes of this condition —
an accessible taxi vehicle is “designated” if it appears on a list maintained under section 167 of the Equality Act 2010;
“the passenger” means the disabled person concerned.

21. The driver of a taxi at the end of each hiring shall search the taxi of which he is in charge for any property which may have been left therein. Any property found by the driver shall, within twenty-four hours, be returned to the owner of the property, if known or such property shall be handed in by the driver to any police station.
22. The driver of a taxi whilst so acting must at all times be strictly sober, clean and tidy in his person and clothing, shall conduct himself in a proper and civil manner and shall not smoke.
23. The driver of a taxi shall not knowingly allow the taxi in his charge to be used for illegal or immoral purposes, permit to be carried in the taxi in his charge any article of a dirty, filthy or noxious nature or an explosive or dangerous nature or permit to be carried in the taxi in his charge any person who has vermin on his person.
24. The driver of a taxi shall ensure that the taxi including all bodywork, upholstery and fittings is safe, serviceable and in a clean condition and at all times ready and sufficient for hire subject to prevailing road conditions.
25. All drivers of taxis arriving at an appointed taxi stance shall take their stations on such stance from front to rear in order of their arrival and hires will be accepted by the drivers in that order except when an intending hirer wishes to engage a specific taxi or its driver in which case the engagement may be accepted in the order indicated by the intending hirer but the onus of proving the hirer's wishes shall be on the driver of the taxi apparently chosen out of order. Unless the licensing authority makes specific arrangements for particular stances, where a taxi is driven off a stance the driver of the taxi immediately behind shall draw up his vehicle to take the place vacated and the taxi drivers on the stance behind shall draw up their vehicles in like manner.
26. The driver of a taxi which is being operated on shared hire may wait at a stance only for such time as is reasonably required to ascertain whether there are any prospective further passengers (in addition to an existing passenger or existing passengers) in the immediate vicinity of the stance at that time who wish to participate in the shared hire of the taxi; but if no such further passengers are found there and then, the driver shall immediately drive his taxi off the stance.

27. The driver of a taxi when a taxi is hired or standing for hire shall either sit in the driving seat of the taxi or stand in the immediate proximity thereto except during any period he may be absent to announce the arrival of his taxi to the hirer or when assisting the hirer to enter or leave the taxi or to load or unload luggage or for any other necessary purpose.
28. While at a stance or a place of public entertainment where other taxis are waiting, drivers must not congregate with others in any one taxi or on the footpath thereat.
29. The licence holder is expressly prohibited from intercepting and acting upon the radio communications of any firm whose facilities he is not authorised to use. Without prejudice to the foregoing generality, the licence holder shall be bound to ensure that no radio scanner device is operated by anyone within his taxi nor shall the same be operated by himself in the vicinity of his nor shall he receive and use information emanating from a taxi or private hire firm other than his own gained from another individual operating a radio scanner.
30. Where the taxi has been hired:
- (a) by or for a disabled person who is accompanied by a guide dog, a hearing dog or an assistance dog of that person,
 - (b) by a person who wishes such a disabled person to accompany that person in the taxi, and the circumstances specified in Condition 29(c) below do not apply, the driver of the taxi shall carry the disabled person's dog and allow it to remain with the disabled person and shall not make any additional charge for doing so.

The terms "guide dog" and "hearing dog" are as defined in Section 20 of The Civic Government (Scotland) Act 1982.

The term "assistance dog" is as defined in The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003 ("the 2003 Regulations").

- (c) The circumstances referred to in condition 29(b) above are that -
 - (i) a notice of exemption in the form set out in the Schedule to the 2003 Regulations has been issued to the driver in accordance with the procedure set out in the 2003 Regulations and is in force; and
 - (ii) that notice is exhibited either by
 - i. affixing it in a prominent position on the dashboard facing upwards; or
 - ii. affixing it to the windscreen of the taxi, facing outwards.

Any notice of exemption shall be issued for such period as the licensing authority considers appropriate.

Application for exemption should be made no later than three months before the date the driver wishes the exemption to take place.



Head of Legal and Democratic Services

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Appendix 2 (Amendments underlined)

CONDITIONS APPLICABLE TO PRIVATE HIRE CAR DRIVERS' LICENCES

Subject to the foregoing, the following words or phrases shall have the meanings set out below: -

"licensed area" means the area of The City of Aberdeen;

"licensing authority" means Aberdeen City Council;

"luggage" includes all items which the hirer or passenger wishes to be carried in the vehicle, whether his own personal baggage for the journey, or being carried for business or otherwise, and shall also include animals or pets which reasonably may be accommodated within the vehicle;

"exclusive", as applied to the hire of private hire car, means that a single fare is payable by any one passenger, whether or not more than one passenger is carried; and "exclusive hire" shall be construed accordingly; and

"shared", as applied to the hire of a private hire car, means that each passenger is carried at a separate fare, payable to the driver; and "shared hire" shall be construed accordingly.

1. The driver of a private hire car shall at all times while he is acting as such have with him the private hire car drivers licence, badge of identification and identity card issued by the licensing authority. He shall exhibit such licence on demand to any passenger, Constable or authorised officer of the licensing authority and shall display such identity card clearly within the passenger compartment of his vehicle. The badge of identification and identity card issued by the licensing authority shall each include a recent photograph showing a true likeness of the driver and he shall display his badge of identification at all times while so acting conspicuously on the outer front, upper portion of his outermost garment with the inscribed side of the badge clearly visible. The licensing authority shall require from the driver of a private hire car at the time of issue of his private hire car driver's licence or badge of identification or identity card a sum specified by the licensing authority.
2. The driver of a private hire car shall NOT: -
 - (a) Permit any other person to use his badge of identification.
 - (b) Wilfully damage his badge of identification.
 - (c) Give, transfer, sell or otherwise dispose of his badge of identification.
3. The driver of a private hire car shall immediately report the loss of his badge of identification to the licensing authority.
4. The driver of a private hire car shall surrender his badge of identification to the licensing authority within seven days of leaving the trade or of the expiry, suspension, forfeiture, revocation or surrender of his private hire car driver's licence.
5. The driver of a private hire car shall surrender to the licensing authority a badge of identification, the inscription or photograph on which has become in whole or in part illegible or defaced as the case may be.
6. The driver of a private hire car shall be bound to fulfil or cause to be fulfilled at the time and location specified an engagement to hire his private hire car which he has accepted.

7. The driver of a private hire car which has been hired may not, in any circumstances, pick up or convey another passenger without the consent of the original hirer(s) or passenger(s).
8. The driver of a private hire car shall not at any time convey in the private hire car more than the number of passengers the private hire car is licensed to carry.
9. The driver of a private hire car which has been hired on exclusive hire shall drive to the destination by the shortest practicable route unless otherwise instructed by the hirer. The driver of a private hire car which has been hired on shared hire shall take the shortest practicable route which will serve the destinations of all the passengers whom he is carrying at any one time.
10. The driver of a private hire car unless the cost of the journey is regulated by a licensing authority fare structure, inform the hirer or passenger before journey commences (a) that the fare is not so regulated; and (b) of the cost or the method of calculating the cost of the proposed journey.
11. The driver of a private hire car shall ensure that any taximeter fitted in the private hire car in his charge shall be operated at all times within the licensed area and in accordance with the detailed requirements imposed by the licensing authority.
12. The driver of a private hire car shall from time to time and at least once in each day in which he uses the vehicle inspect the seals on any taximeter fitted in the vehicle to ensure that they are intact. On discovering that the seals on any taximeter fitted to the vehicle have become broken or damaged or that the taximeter has ceased to function correctly, the driver of a private hire car shall immediately withdraw the vehicle for service.
13. Subject to condition 13 below, the driver of a private hire car shall not refuse to drive a passenger to any place within the licensed area.
14. The driver of a private hire car need not convey any hirer or passenger who is drunk or otherwise not in a fit and proper state to be carried or whose condition of clothing is offensive or likely to cause damage to the interior of the private hire car or who refuses to cease smoking in the private hire car when requested to do so by the driver or is accompanied by an animal which is likely to damage or soil the interior of the private hire car or for any other reasonable excuse approved by the licensing authority.
15. The driver of a private hire car while he is in charge of the private hire car shall not canvass or importune for employment in any street or other public place.
16. The driver of a private hire car shall not refuse to carry luggage in his private hire car providing that the luggage can be accommodated safely within the private hire car.
17. The driver of a private hire car shall give such assistance as he is able to give with loading and unloading passengers and luggage when required to do so but he shall not be required to leave the immediate proximity of the private hire car in doing so.
18. Where the private hire car has retractable steps, the driver shall operate these as and when required and make reasonable enquiries of passengers, where appropriate, to ascertain this.
- 19.(a) The driver of a designated accessible private hire car shall assist wheelchair users into and out of the vehicle using the ramp if necessary and shall ensure that they are properly secured by means of the fixed seat belts before starting the journey, but the driver of the vehicle will not be required to leave the immediate proximity of the vehicle in doing so; and
(b) The driver of a designated private hire car is exempt from compliance with the duties,

to carry the passenger while in the wheelchair or if the passenger chooses to sit in a passenger seat, to carry the wheelchair, and otherwise from the duties to assist passengers in wheelchairs in the following circumstances —

- (i) if an exemption certificate issued to the driver is in force, and
- (ii) if the prescribed notice of the exemption is exhibited on the private hire car.

For the purposes of this condition —

an accessible private hire car is “designated” if it appears on a list maintained under section 167 of the Equality Act 2010;

“the passenger” means the disabled person concerned.

20. The driver of a private hire car at the end of each hiring shall search the private hire car of which he is in charge for any property which may have been left therein. Any property found by the driver shall, within twenty-four hours, be returned to the owner of the property, if known or such property shall be handed in by the driver to any police station.
21. The driver of a private hire car whilst so acting must at all times be strictly sober, clean and tidy in his person and clothing, shall conduct himself in a proper and civil manner and shall not smoke.
22. The driver of a private hire car shall not knowingly allow the private hire car in his charge to be used for illegal or immoral purposes, permit to be carried in the private hire car in his charge any article of a dirty, filthy or noxious nature or an explosive or dangerous nature or permit to be carried in the private hire car in his charge any person who has vermin on his person.
23. The driver of a private hire car shall ensure that the private hire car including all bodywork, upholstery and fittings is safe, serviceable and in a clean condition and at all times ready and sufficient for hire subject to prevailing road conditions.
24. A driver of a private hire car while attending at a place of public entertainment or other public place where taxis and other private hire cars are waiting shall not congregate with others in any one taxi or on the footpath thereat.
25. The licence holder is expressly prohibited from intercepting and acting upon the radio communications of any firm whose facilities he is not authorised to use. Without prejudice to the foregoing generality, the licence holder shall be bound to ensure that no radio scanner device is operated by anyone within his private hire car nor shall the same be operated by himself in the vicinity of his private hire car, nor shall he receive and use information emanating from a taxi or private hire firm other than his own gained from another individual operating a radio scanner.
26. Where the private hire car which the private hire car driver is driving or otherwise has charge of has been hired:
 - (a) by or for a disabled person who is accompanied by a guide dog, a hearing dog or an assistance dog of that person, or
 - (b) by a person who wishes such a disabled person to accompany that person in the private hire car, and the circumstances specified in Condition 24(c) below do not apply, the driver of the private hire car shall carry the disabled person's dog and allow it to remain with the disabled person and shall not make any additional charge for doing so.

The terms “guide dog” and “hearing dog” are as defined in Section 20 of The Civic Government (Scotland) Act 1982.

The term “assistance dog” is as defined in The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003 (“the 2003 Regulations”).

- (c) The circumstances referred to in condition 29(b) above are that -
- (i) a notice of exemption in the form set out in the Schedule to The Private Hire Car Drivers' Licences (Carrying) of Guide Dogs and Hearing Dogs (Scotland) Regulations 2004 ("the 2004 Regulations") has been issued to the driver in accordance with the procedure set out in the 2004 Regulations and is in force; and
 - (ii) that notice is exhibited either by -
 - i. affixing it in a prominent position on the dashboard of the private hire car facing upwards; or
 - ii. affixing it to the windscreen of the private hire car facing outwards.

Any notice of exemption shall be issued for such period as the Licensing authority considers appropriate.

Application for exemption should be made no later than three months before the date the driver wishes the exemption to take effect.



Head of Legal and Democratic Services

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Equality and Human Rights Impact Assessment - the Form

There are separate guidance notes to accompany this form – “Equality and Human Rights Impact Assessment – the Guide.” Please use these guidance notes as you complete this form. Throughout the form, **proposal** refers to policy, strategy, plan, procedure, report or business case, embracing a range of different actions such as setting budgets, developing high level strategies and organisational practices such as internal restructuring.

STEP 1: Identify essential information

1. Committee Report No.

2. Name of proposal.

3. Officer(s) completing this form.

Name	Designation	Service	Directorate
Paul Connolly	Solicitor	Legal and Democratic Services	Corporate Governance

4. Date of Impact Assessment.

5. When is the proposal next due for review?

6. Committee Name.

7. Date the Committee is due to meet.

8. Identify the Lead Council Service and who else is involved in delivering this proposal (for example other Council services or partner agencies).

9. Please summarise this Equality and Human Rights Impact Assessment (EHRIA). This must include any practical actions you intend to take or have taken to reduce, justify or remove any adverse negative impacts. **Please return to this question after completing the EHRIA.**

The amendments to the conditions shall ensure that requirements in relation to taxi (and private hire drivers') medical exemptions from the requirement to carry wheelchair passengers in an accessible vehicle are clear for both taxi and private hire drivers and wheelchair passengers.

The other amendments to the conditions shall ensure that requirements in relation to separate medical exemptions from the requirement to carry assistance dogs are clear for both taxi and private hire drivers and passengers with assistance dogs. These variations to the conditions will aid the proper implementation of disability legislation by the Committee.

10. Where will you publish the results of the Equality and Human Rights Impact Assessment? Tick all that apply.

- Para 9 of EHRIA will be published in committee report in Section 6 "Impact"
- Full EHRIA will be attached to the committee report as an appendix
- Copied to Equalities Team to publish on the Council website

STEP 2: Outline the aims of the proposal

11. What are the main aims of the proposal?

To ensure that requirements in relation to medical exemptions are clear for both taxi and private hire drivers and disabled passengers. It will also aid proper implementation of the legislation by the Committee.

12. Who will benefit most from the proposal?

Taxi and private hire drivers, wheelchair passengers and passengers with assistance dogs.

13. Tell us if and how the proposal will increase equality of opportunity by permitting positive action to redress disadvantage?

The proposal will implement the legislation, which is mainly targeted to redress disadvantage in accessing transport for wheelchair passengers and passengers with assistance dogs. However, the medical exemptions also ensure that taxi and private hire drivers who themselves have disabilities are not required to meet the requirements to assist other disabled persons, where it would be overly arduous or impossible for them to comply.

14. What impact will the proposal have on promoting good relations and wider community cohesion?

The proposal promotes good relations between the taxi and private hire drivers and wheelchair passengers and passengers with assistance dogs.

STEP 3: Gather and consider evidence

15. What evidence is there to identify any potential positive or negative impacts in terms of consultation, research, officer knowledge and experience, equality monitoring data, user feedback and other?

Following a taxi demand survey carried out in November 2011 disabled representatives advised that it is frustrating when wheelchair passengers cannot access an accessible vehicle as the driver of that vehicle has an exemption from carrying a wheelchair passenger. This concern was reiterated to litigation and licensing officers by members of the Council's Disability Advisory Group and as a result of targeted consultation with the Council's consultees for the protected characteristics of age and disability.

These medical exemptions are a statutory requirement therefore although the suggestion made by the above respondents was that all accessible vehicles should be available to wheelchair passengers at all times this is not possible.

However, the proposal to review the conditions should clarify the terms of the exemption for taxi and private hire drivers. This should aid cohesion between drivers and passengers who share the protected characteristic of disability. Drivers with a medical exemption can advise potential passengers correctly with regard to their exemption, thereby fostering good relations between these two groups.

Furthermore, clarifying that the exemption certificate (i.e. from the requirement to carry a wheelchair passenger) should be displayed on the taxi also should help foster good relations between these groups as it will be evident to a potential passenger if a driver holds an exemption.

STEP 4: Assess likely impacts on people with Protected Characteristics

16. Which, if any, people with protected characteristics and others could be affected positively or negatively by this proposal? Place the symbol in the relevant box. Be aware of cross-cutting issues, such as older women with a disability experiencing poverty and isolation.

(Positive +, neutral 0, - negative)

Protected Characteristics					
Age - Younger Older	0	Disability	+	Gender Reassignment*	0
Marriage or Civil Partnership	0	Pregnancy and Maternity	0	Race**	0
Religion or Belief	0	Sex (gender)***	0	Sexual	0

Equality and Human Rights Impact Assessment – the Form.

				orientation****	
Others e.g. poverty	0				

Notes:

- * Gender Reassignment includes Transgender
- ** Race includes Gypsies/Travellers
- *** Sex (gender) i.e. men, women
- **** Sexual orientation includes LGB: Lesbian, Gay and Bisexual

17. Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.

<p>Positive impacts (describe protected characteristics affected)</p> <p>The amendments to the conditions shall aid the proper implementation of legal requirements intended to assist persons with disability with regard to taxi/private hire transport services.</p>	<p>Negative Impacts (describe protected characteristics affected)</p>
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STEP 5: Human Rights - Apply the three key assessment tests for compliance assurance

18. Does this proposal/policy/procedure have the potential to interfere with an individual's rights as set out in the Human Rights Act 1998? State which rights might be affected by ticking the appropriate box(es) and saying how. **If you answer "no", go straight to question 22.**

<input type="checkbox"/> Article 3 – Right not to be subjected to torture, inhumane or degrading treatment or punishment <input type="checkbox"/> Article 6 – Right to a fair and public hearing <input type="checkbox"/> Article 8 – Right to respect for private and family life, home and correspondence <input type="checkbox"/> Article 10 – freedom of expression <input type="checkbox"/> Other article not listed above <p>Article 14 of the European Convention on Human Rights, Prohibition of discrimination, may be relevant in decisions of the Committee which could be interpreted as discriminatory against certain protected groups. In the circumstances, the report recommendations comply with Article 14 as they are not discriminatory against protected groups.</p>

Legality

19. Where there is a potential negative impact is there a legal basis in the relevant domestic law?

The impact of medical exemptions may be that disabled passengers cannot access some taxis or private hire cars. However, this is consistent with the requirements of the public sector equality duty generally and the specific provisions of the Equality Act 2010 for taxis and private hire cars as it balances disabled passengers and disabled drivers' rights, i.e. access to transport and access to employment.

Legitimate aim

20. Is the aim of the policy identified in Steps 1 and 2 a legitimate aim being served in terms of the relevant equality legislation or the Human Rights Act?

Yes, it is a legitimate aim in terms of Section 149 of the Equality Act 2010. The proposal complies with the public sector equality duty.

Proportionality

21. Is the impact of the policy proportionate to the legitimate aim being pursued? Is it the minimum necessary interference to achieve the legitimate aim?

Yes the proposal is proportionate to the proper implementation of the legislation.

STEP 6: Monitor and review

22. How will you monitor the implementation of the proposal? (For example, customer satisfaction questionnaires)

The policy will be subject to ongoing review.

23. How will the results of this impact assessment and any further monitoring be used to develop the proposal?

Members will have the opportunity to consider the impact assessment and main report.

The policy will be monitored on an ongoing basis.

STEP 7 SIGN OFF

The final stage of the EHRIA is formally to sign off the document as being a complete, rigorous and robust assessment.

Person(s) completing the impact assessment.

Equality and Human Rights Impact Assessment – the Form.

Name	Date	Signature
Paul Connolly		

Quality check: document has been checked by

Name	Date	Signature
Alyson Mollison		

Head of Service (Sign-off)

Name	Date	Signature
Jane MacEachran		

Now –

Please send an electronic copy of your completed EHRIA - without signatures - together with the proposal to:

Equalities Team
Customer Service and Performance
Corporate Governance
Aberdeen City Council
Business Hub 13
Second Floor North
Marischal College
Broad Street
Aberdeen
AB10 1AB

Telephone 01224 523039 Email sandrab@aberdeencity.gov.uk

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