

**WAVERLEY BOROUGH COUNCIL**

**LICENSING (GENERAL PURPOSES) SUBCOMMITTEE**

**7 SEPTEMBER 2015**

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**Title:**

**APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE (REQUESTING EXEMPTION FROM VEHICLE AGE POLICY)**

**[Wards Affected: All]**

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**Summary and Purpose**

This report enables the Sub-Committee to consider a request to consider granting a licence for a vehicle as a Hackney Carriage vehicle which is more than four years old, with the current Council policy requiring a vehicle being first licensed to be under four years old. There are no environmental or resource implications arising as a result of this report.

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**How this report relates to the Council's Corporate Priorities:**

This report relates to improving lives in the Borough.

**Resource/Value for Money Implications**

There are no immediate resource implications in this report.

**Legal implications:**

Mr Siekaj has the right, under Article 6 European Convention on Human Rights, to a fair hearing. The Sub-Committee is required to give Mr Siekaj the reasons for its decision.

There could be some legal implications if the decision of the Sub-Committee was such that Mr Siekaj decided to appeal to the Crown Court, as is the right of any hackney carriage vehicle licence applicant aggrieved by the Sub-Committee's decision. However, this must not fetter the Sub-Committee's duty of consideration of the matter in the interests of public safety.

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**Introduction**

1. Authority is delegated to officers to issue Hackney Carriage and Private Hire vehicle licences for vehicles that comply with the Council's Hackney Carriage and Private Hire Licensing Policy. Vehicles that do not comply with the policy can be referred to the Sub-Committee for determination on a case-by-case basis.
2. Section 47(1) Local Government (Miscellaneous Provisions) Act 1976 states:

A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.

3. Waverley Borough Council's current (July 2013) Hackney Carriage and Private Hire Licensing Policy states:

**Age of the vehicle**

Subject always to the vehicle being fit for the purpose and passing its test, commencing from 20th July 2010, the maximum age of vehicles presented to be licensed for the first time shall not be more older than 4 years old at first registration. This is assessed by the date in the vehicle's logbook (registration document) when it is ready for its test. The vehicle may continue to be licensed until its 10th anniversary, by which time it will need to be replaced.

When a vehicle reaches five (5) years old, it shall be required to undergo an interim vehicle test 6 months after licence renewal. Vehicles in this age bracket will be issued with six-month duration plates.

4. Mr Siekaj has applied to licence a Fiat Scudo, which is over four years old but was previously licensed (with disabled access) by Waverley from November 2008 until December 2014. A copy of the application is attached at Annexe 1. The vehicle, a Fiat Scudo has a date of first registration with the DVLA of 3 November 2008 which makes it almost 6 years and 10 months old, which is outside the Council's policy for a newly licensed vehicle.
5. Mr Siekaj recently purchased the vehicle from another licensee and has replaced the vehicle's engine. He requests that the vehicle be granted exemption from the age policy. Attached at Annexe 2 is an email from Mr Siekaj with accompanying photographs.
6. The vehicle is due to be tested at Guildford Borough Depot on 26 August 2014. Results of the test will be tabled at the hearing. Mr Siekaj has stated that the vehicle is in good condition and has disabled access. The current mileage stated on the application, having had a replacement engine, is 10,000 miles.

**Community Safety Implications**

7. The Department for Transport's Best Practice Guide states, "The aim of local authority licensing of the taxi and private hire vehicle trades is to protect the public."

The following options are open to the Sub-Committee to consider:

- Grant the application, giving its reasons for doing so
- Grant the application with such conditions as the Sub-Committee considers reasonably necessary, which must be justified with reasons
- Refuse the application, giving its reasons for doing so

## **Recommendation**

It is recommended that the Sub-Committee gives consideration to the application for a hackney carriage vehicle licence which requests exemption from the age policy for the particular vehicle sought to be licensed as submitted by Mr Siekaj.

If the Committee were minded to licence the vehicle a condition regarding the maximum permitted number of passengers when conveying a passenger in a wheelchair should be considered. When previously licensed the following condition was added:

When conveying a passenger in a wheelchair, this vehicle is licensed to carry up to a maximum of 4 (four) passengers, including the wheelchair passenger, the front passenger seat and the two off side rear passenger seats (one rear and one front facing). At all other times the vehicle is licensed to carry a maximum of 7 (seven) passengers.

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