

APPENDIX 1

Report to Wyre Forest Association reference the current position of appeal

As members will know, we have now been in court on a number of occasions; initially because the conditions of licence which were being appealed were not sufficiently clear for the appeal to be targeted properly.

Secondly, the council claimed that we were out of time. However, suffice it to say that we agreed to adjourn the case with the full consent of the Magistrates in order to try to broker a compromise position with the council. In this respect we came down to meet with you, and with the council. We have now met with the council on three separate occasions, once with the attendance of Roy Powell.

At the meeting with the trade, I believed it was possible that we might be able to find a way forward which would be acceptable to the trade in Wyre Forest; and on that basis I was more than willing to attempt to move the matter forward without having to go to Court.

However, at the last meeting at the council offices on the 9th May, it became clear that the views of Mr Powell were so strongly entrenched that the only way forward was to obtain a consensus of opinion from the rest of the trade, and for that reason and that reason only I agreed to write a report on the position as I see it.

I think this is very important, for two reasons: firstly, the interests of the Appellant, Mr Watkins, must be considered by everybody before taking this matter to Court. It is he who has held his hand up to go forward with this appeal, and I feel that it is incumbent upon the trade to support his position.

I know that some certainly do, but I have to say that if we have to go forward on the basis of Mr Powell's inflexible view of the situation, I would not wish to take this matter any further. There is nothing personal in this comment, but the history of this matter needs to be considered by all in the cold light of logic, and I urge all who read this report to consider all the points raised.

5. So in the city of Worcester, over-supply is a huge issue. Contrast that with Sandwell, who have always been deregulated but insisted on wheelchair accessible taxis, and you get the completely opposite picture: only 21 hackney carriages and 850 private hire vehicles.
6. Of course it is also possible to overkill, so when South Staffordshire introduced London-type cabs only, it was only a matter of years before there were no taxis left at all. The only remaining hackney operates as a rural bus service.

Deregulation

7. I then received the first calls from the trade - three or four different people contacted me with regard to deregulation, and I gave them the same advice that
I have given the council: that effectively in order to protect their earning capacity, their place on the rank and their future viability, controls have to be accepted, without which a Worcester or Hereford (and many other places) scenario would exist, and the drivers would have no income.
8. I gave the council and the trade some examples of what was possible, including court cases which showed that a local authority could introduce a condition requiring brand-new vehicles; and indeed, have the ability to impose mixed fleet conditions.
9. However, it was not possible to introduce these conditions in the same way as Swansea had done, because since the Swansea initiative, the Disability Discrimination Act had been passed, which of course envisages that sooner or later all hackney carriages would be wheelchair accessible.
10. The trade pointed out to me that they were not in the first tranche of local authorities that are supposed to comply with the DDA. In return I had to point out that the OFT Report, and the Government's response to that report, had effectively not only suggested that councils should deregulate, but had also suggested that wheelchair accessibility should be taken into account.

- b. Secondly, could the age restriction be imposed in a flexible manner;
 - c. Thirdly, the colour livery condition: would the council consider withdrawing this; and
 - d. Finally, the wheelchair accessible issue.
16. As we have said, the council is willing to talk; but when I met the council with Mr Powell, his position appeared to be (and I am sure that all those present would agree) that:-
- a. He wanted to retain the saloon cars
 - b. He wanted the age restriction relaxed to four years on
 - c. He didn't want a colour livery condition at all
17. The position adopted by Mr Powell puts me in a very difficult position. I was asked initially by the trade and the council for a level of protection because of the deregulation issue. Although not as severe as the suggestions I put forward - ie. brand new wheelchair accessible vehicles, as in Birmingham - I do not see that I can go forward asking the council to relax those protective conditions without some sort of mandate from the trade.
18. Here again readers are reminded that ours is not the only appeal. A change in direction at this moment by the council could have disastrous results. I have to say that this cannot be a "have your cake and eat it too" situation. Mr Powell points out that most of the hackney carriages are already on radio circuits, and the Government and the Disabled Persons' Transport Advisory Committee have all indicated that if drivers don't want to become wheelchair accessible, they can always change to private hire. Mr Powell says that this is untenable; impossible to contemplate in your area.
19. I have tried to point out to Mr Powell that if he wishes a level of exemption from these conditions as being in the trade already, the council cannot then impose considerably more stringent conditions on those entering the trade.

why they are reasonable. If you are unable to think of sensible grounds why the conditions are unreasonable, then there is no point going forward with the court case.

26. Some of you travelled over to Sandwell to hear my meeting with the trade there, and their appeals against conditions. The issues there are on the face of it somewhat similar; however, they are all private hire - you are hackney carriage. The local authority cannot lawfully impose wheelchair accessibility on private hire; they cannot lawfully impose colour conditions on private hire vehicles. The case there is going forward because there are huge question marks about the reasonableness of what the council has done.
27. We are appealing the colour silver on taxis in Stratford-upon-Avon. So do not think that you do not have a case; what we need to know is, what is the case in Wyre Forest? I am not getting sufficient answers at present to be able to put before a court.

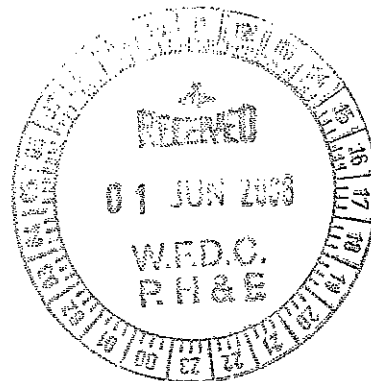
Bryan M Roland
National Private Hire Association
1 June 2006

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Regency Vehicle Hire

Mr. M. Kay,
Environmental Health and Licensing Officer,
Duke House,
Kidderminster.



Dear Mr Kay,

Please find enclosed proposals for Deregulation Plan for discussion at Fridays Taxi Liasion Group meeting.

Yours sincerely,

A handwritten signature in cursive script that reads "Trevor Owen".

Trevor Owen.

Regency Vehicle Hire

Proposed implementation date for Deregulation Plan

The purpose of this proposal is to suggest a balance between the aims of the Deregulation Plan and the ability of the taxi industry to comply with the plan whilst maintaining an acceptable level of service to the district.

The three main aims of the Deregulation Plan are *quality quantity* and *safety*.

1. Quality.

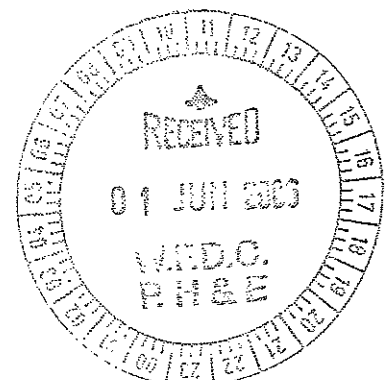
The introduction of a lower age limit of two years for all hackney carriage and private hire vehicles has ensured a level of quality that is unsurpassed in the West Midlands region. The further stipulation that hackney carriage vehicles should be wheelchair accessible will have a profound effect on quantity.

2. Quantity.

With the Deregulation Plan now in the second year it is plain that the dual constraints of the lower age limit and the wheelchair accessible clause have discouraged new entrants to the trade. Despite the Council having advertised the availability of licenses only four of those available in 2005 were issued and although a further seven have been preliminarily issued it is unlikely that those applicants who have applied will pursue their option when they realise the costs involved. Thus the Councils aim of quantity control can be seen to have been achieved. This being the case if the same criteria are applied to existing members of the trade, as their existing vehicles reach the seven year upper age limit, with current indications being that the two major taxi firms will change from hackney carriage to private hire vehicles and the vast majority of owner-drivers indicating that they will either do likewise or leave the trade, the consequences of this action will seriously compromise the Councils aim of public safety.

3. Safety.

The fact that within Wyre Forest the overwhelming number of taxis are hackney carriages rather than private hire vehicles can be shown to have been a considerable contributory factor to the low number of incidents involving bogus taxi drivers within the district over the years. It is a well documented fact that incidents involving assaults on members of the public invariably occur through unlicensed drivers using unlicensed vehicles at peak times. It is therefore in the public interest to retain a vibrant hackney carriage based taxi industry that can evolve to suit the needs of the district whilst also remaining faithful to the principles of the Deregulation Plan.



It is unfortunate that the Deregulation Plan and the Governments proposals on wheelchair accessible vehicles have become entwined so far as discussions between the Council and the taxi industry are concerned. On several occasions Councillors have quoted the timetable to comply with Government legislation regarding wheelchair accessible vehicles as being 2010. The most notable occasion being the Licensing meeting of 11th July, 2005 when the Councils then solicitor Dermott Scully remarked "It's no use starting to comply in 2008 when we have to fully comply by 2010"

The preliminary date set for 1st phase authorities to comply with Government legislation is 2010-2020. This means the intention is for these authorities to commence compliance in 2010 and complete by 2020. The up to date information from the Department of Transport is: The criteria set for a fully accessible wheelchair vehicle has not to date been met by any taxi vehicle manufacturer, therefore the date of 2010 is unlikely to apply. There is no set date for 2nd phase authorities (which includes Wyre Forest) to comply.

*Source and date of information: Jim Hands, Department for Transport, Mobility Division, Great Minster House, 76 Marsham Street, London. Tel: 020 7944 8034.
26th May, 2006.*

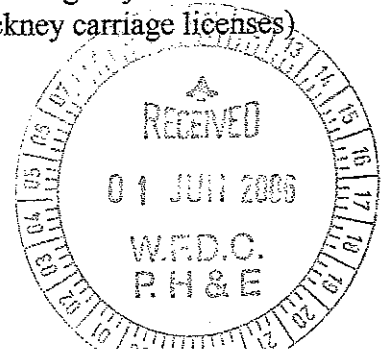
For the taxi industry and the Council to move forward in the same direction we need you to understand that when we say we cannot afford to meet the new licence conditions, we are sincere and not merely throwing our rattle out of the pram, however we do believe the Councils objectives could be met over a period of time.

We therefore propose to the Council that the current licence conditions regarding age are retained and that they are phased in over a period of time which would allow those owner drivers who have purchased licenses to recoup the losses sustained by the fact that we are no longer a regulated authority and allow those who wish to stay in the trade a cushion of time in order that they may save towards the extra cost of compliance. Those forced to leave the trade by virtue of age so far as obtaining hire purchase is concerned would hopefully feel they had been treated with the respect they undoubtedly deserve for their years of service.

With regard to implementation we would ask the Council continue to re-licence all existing licensed saloon cars as saloon cars as a one off. With regard to colour we suggest silver for new entrants to the trade only. With regard to age we suggest for saloon cars the Council maintain the policy of under two years as a lower age limit and seven years as an upper age limit. With regard to wheelchair accessible vehicles, we suggest an upper age limit of ten years, which is in line with proposed London Carriage Office guidelines. For private hire vehicles we suggest the same age conditions as saloon hackney carriages.

The above proposals are subject to any prevailing Government guidelines or revised legislation.

These proposals were drafted after consultations with and have the support of: The partners of Regency Vehicle Hire (32 hackney carriage licenses) The owner drivers of Regency Vehicle Hire (30 hackney carriage licenses) The partners of Central Taxis (18 hackney carriage licenses)



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ENVIRONMENTAL HEALTH AND LICENSING MANAGER : M. KAY

FROM: Mr. M. Kay

MY REF: MK/DDW/
YOUR REF:

DATE: 6th June 2006

Mr T Owen
5 Comberton Terrace
KIDDERMINSTER
Worcs. DY10 1QP

Dear Sir

Further to your letter received on 1st June 2006, and the Taxi Liaison group meeting held on 2nd June 2006, I have now had an opportunity to discuss your proposals with both our in house legal team and our specialist licensing solicitor.

As you recall the meeting on 2nd June 2006 accepted that if the current legal action against the new conditions were to be withdrawn or the court to make a final binding decision, then there would be nothing to stop your proposal for up to a seven year moratorium being presented to the Council's Licensing and Environmental Committee, who would then have to make a recommendation to Cabinet.

I also undertook to obtain specialist legal advice on the proposal and this would be included in any report to the committee. The thrust of the advice I have now received is that any extended derogation or moratorium would place the Council in a position where it could be challenged and this could leave the Council open to legal costs and or claims for compensation.

The advice further states that the period quoted i.e. seven years is too long and could not be justified and should be regarded as unreasonable. It is felt that the one year exemption currently in force was justified and can be defended on the grounds of preventing "hardship" to individuals.

Please understand that this is preliminary advice and I would suggest that you seek your own independent advice on the matter, but this is what will be included in any report to the Licensing and Environmental Committee.

I understand from Mr. Roland that Mr. Watkins is likely to withdraw his appeal against the new conditions and I wanted you to be aware of the advice the Council is receiving with regard to your proposal but please understand the Committee will reach a decision based on all the advice and evidence put before them, including relevant legal advice.

A further meeting to discuss your proposal in more detail may be of benefit.

I look forward to hearing from you.

Yours faithfully



INVESTOR IN PEOPLE

M. KAY
Environmental Health and Licensing Manager

Head of Planning, Health and Environment, M. PARKER, B.A.(Hons.), B.T.P., M.R.T.P.I., Dip.Surv.

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