

EAST AYRSHIRE COUNCIL**LOCAL GOVERNMENT LICENSING PANEL****22 MAY 2003****REVIEW OF POLICY REGARDING WHEELCHAIR ACCESSIBLE
VEHICLES FOR USE AS TAXIS****Report by Director of Community Services****1. PURPOSE**

- 1.1 To invite the Licensing Panel to review Council policy that all vehicles operating as taxis be able to carry a wheelchair passenger (without the latter transferring) by 1st May 2004.

2. BACKGROUND

- 2.1 At a meeting held on 24th February 1999, Licensing Sub-Committee considered a report from the Director of Community Services dated 29th January 1999. A copy of that report is attached as an appendix.

After considerable discussion, it was agreed that by 1st May 2004 all vehicles licensed to operate as taxis must be of a type complying with the Council's list of approved vehicles for the carriage of disabled passengers. The list of approved vehicles would be restricted to those which could allow a wheelchair bound passenger to travel without leaving the wheelchair.

- 2.2 The original decision was taken in the light of the provisions contained in the Disability Discrimination Act 1995 relative to taxis, and also powers contained within the Civic Government (Scotland) Act 1982 which allows the Council as licensing authority to specify the type or types of vehicle which may be used as taxis within in their area.
- 2.3 At the time of the decision (1999) it was anticipated that the provisions of the Disability Discrimination Act 1995 would bring in very onerous specifications for vehicles used as taxis by 2012 and the reasoning was that if the Council could demonstrate having a taxi fleet which could accommodate the majority of the disabled community in East Ayrshire then a case might be made for the more onerous specifications to be relaxed.
- 2.4 The most recent information available from the Scottish Executive is that it is doubtful that the 2012 target date will be met and a detailed consultation

document on the suitability of taxis for the disabled is to be issued. It is not expected that the consultation process will take place before 2004 after which the Scottish Executive would then consider fixing a revised implementation date. Given the timetable set out in the 1995 Act, it is probable that the Scottish Executive will allow a lead-in period of anything between 10 and 15 years to allow Scottish Taxi Operators to comply fully with the provision of new legislation.

- 2.5 The current Policy was agreed by the Council in terms of the Civic Government (Scotland) Act 1982 and at the time had the full support of representatives of the two Forums on Disability in East Ayrshire. The policy was also publicly recognised and commended by Scottish Executive staff as an example of “good practice” at a number of public meetings.
- 2.6 Shortly after the Policy was agreed, a considerable number of operators in the south area moved quickly to obtain vehicles which complied with it. Operators in the north area however, have been reluctant to move towards purchasing vehicles which would comply with Council Policy on the basis that the original legislation announced by the Scottish Executive had been delayed; the Council had no statutory obligation to agree such a Policy; and the enthusiasm within the Kilmarnock Forum on Disability for the Policy had waned.
- 2.7 The 2004 Policy (as it became to be known) was the topic of regular discussion at the liaison meetings with representatives of East Ayrshire Taxi Trade Council and the various Chairs of Licensing Sub-Committee and in turn Licensing Panel. The Taxi Trade Council has petitioned elected members; MSPs and MPs on the basis that the Council Policy places a more onerous burden on them than is required by statute.
- 2.8 At the most recent liaison meeting, the Chair of Licensing Panel undertook to have a survey of all licensed operators carried out to establish the progress within the registered taxi fleet in East Ayrshire towards compliance with the 2004 Policy. A copy of the letter and accompanying questionnaire is attached as Appendix 2.

3. DISCUSSION

- 3.1 At the present time some 67 individuals have taxi operators licences (covering 112 vehicles) and only 7 responded to the letter and questionnaire (Appendix 2) sent out. A further 24 operators did not respond in any way.

3.2 The remaining 36 operators all referred the letter and questionnaire to Anderson Fyfe, Solicitors, Glasgow who submitted a response dated 10th December 2002 with enclosures (Appendix 3).

3.3 From the information submitted, it would appear that of the 19 plates operating in the south area 11 are attached to vehicles which already comply with the 2004 Policy. Of the 93 plates operating in the north area, only 9 are attached to vehicles which comply with the 2004 Policy (it should be noted however that since 1st April, licensing staff have processed changes for 2 vehicles which will comply with the 2004 standard.)

It has not been possible to establish how many operators intend to comply with the 2004 deadline.

3.4 In the original report (1999) it was pointed out that a number of operators might simply return their plates to the Council on 30th April rather than comply with the 2004 Policy. This would leave the Council with the option of offering these plates to other individuals on condition that they complied with the appropriate procedure and used vehicles which met the criteria for carrying disabled passengers.

The letter from Anderson Fyfe indicates that the Taxi Trade Council does not accept the need for such an option being implemented.

3.5 The Taxi Trade also return to the proposal that only a percentage of the licensed taxi fleet in East Ayrshire should be wheelchair accessible and suggest that 10% in each zone would be sufficient. The trade also point out that if either the 2004 Policy remains unchanged or any percentage eventually fixed by the Council is significantly higher than 10%, they would welcome at least a 12 month delay to allow operators further time to comply with the requirements.

3.6 The 7 individual operators also support the view that the implementation date should be deferred by at least 12 months and that the number of wheelchair accessible vehicles currently in operation is sufficient to meet the needs of the community.

The original decision to require all licensed taxis to be wheelchair accessible was taken on the basis that the disabled community could hail a taxi, visit a rank or order a taxi on the understanding that the vehicle would be capable of completing the journey.

3.7 If the Panel is minded to defer or vary the previous decision, cognisance will require to be taken of those operators who have invested in new

vehicles on the basis that failure to comply by 1st May 2004 would effectively mean a breach of licence.

4. FINANCIAL IMPLICATIONS

- 4.1 It was recognised that the taxi operators would incur some additional costs in ensuring their compliance with the 2004 policy and on at least one previous occasion, requests from the Taxi Trade Council for fare increases significantly higher than the current rate of inflation have been approved by the Panel.

5. LEGAL IMPLICATIONS

- 5.1 Section 10 (2) of the Civic Government (Scotland) Act 1982.
- 5.2 The provisions relating to taxis contained within the Disability Discrimination Act 1995.

6 POLICY IMPLICATIONS

- 6.1 Nil.

7. CONCLUSIONS

- 7.1 In 1999 it was agreed that by 2004 all vehicles licensed as taxis in East Ayrshire would be of a type which was capable of carrying a disabled passenger in their wheelchair if required.
- 7.2 Since that time a significant number of operators have voiced concerns about the Policy and it was agreed by the Chair of Licensing Panel that a survey be carried out to establish progress.
- 7.3 A significant number of taxi operators have declined to complete and return a questionnaire designed to establish their inclination towards compliance with the Policy and instead have instructed Anderson Fyfe Solicitors to comment generally on the Council's Policy.
- 7.4 While more than half of the taxi operators in the south area already have vehicles which meet the 2004 Policy, the proportion in the north is much smaller at just over 10%.

8. RECOMMENDATIONS

- 8.1 It is recommended that Licensing Panel having considered all relevant information:-

- 8.1.1 Agree that the previous approved policy remain in effect but defer the implementation date until 1st May 2005 and
- 8.1.2 In the interim remit to the Director (following due consultation) to prepare and submit a report to a future meeting of the Panel, setting out detailed consideration of possible alternative policy approaches including specifically that which has been suggested by the Taxi Trade Council.

William Stafford
Director of Community Services

13th May 2003

WS/JFC/FMT

LIST OF BACKGROUND PAPERS

- 1. Minute of the meeting of the Licensing Sub-Committee of the Community Services Committee held on 24th February 1999.
- 2. Minute of the meeting with representatives of East Ayrshire Taxi Trade Council and Disability Forum held on 31st October 2002.