

APPENDIX L – INTENDED USE POLICY FOR THE LICENSING OF HACKNEY CARRIAGES

1. Applications for the New Grant of a Hackney Carriage Licence

- 1.1 Applicants for new hackney carriage vehicle proprietor licences shall be expected to demonstrate a bona fide intention to ply for hire within the local authority area of Preston under the terms of the licence for which application is being made.
- 1.2 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the local authority area of Preston will not be granted a hackney carriage vehicle proprietor's licence authorising them to do so. Each application will continue to be decided on its own merits.
- 1.3 Even where the applicant intends to ply for hire to a material extent in the Preston local authority area, if the intention is to trade in another Authority's area also for a substantial amount of time (and it appears that the purpose of the legislation will be frustrated) then, subject to the merits of the application, there will be a presumption that the application will be refused.

2. Applications for the Renewal of a Hackney Carriage Licence

- 2.1 Applicants for the renewal of licences will be required to inform the Authority whether they have a bona fide intention to ply for hire within the Preston local authority area under the terms of the licence for which application is being made.
- 2.2 There will be a presumption that applicants who do not intend to a material extent to ply for hire within Preston will not be granted a hackney carriage vehicle proprietor's licence authorising them to do so. Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") gives the authority a broad discretion to refuse to renew a licence for any reasonable cause. Each application will be decided on its own merits.
- 2.3 Even where the applicant intends to ply for hire to a material extent in the Preston local authority area, if the intention is to trade in another Authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the application, there will be a presumption that the application will be refused.

3. Transfer of Ownership of Hackney Carriage

- 3.1 The transferee of a licensed hackney carriage shall be asked to inform the Authority whether they have a bona fide intention to ply for hire within the Preston local authority area. Transferees should note the obligation under Section 73 the 1976 Act to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation.

- 3.2 Transferees of existing licences shall be expected to have a bona fide intention to ply for hire with the Preston local authority area under the terms of the vehicle licence in respect of the vehicle being transferred.
- 3.3 Where the transferee of a licensed hackney carriage is found to have no intention to ply for hire to a material extent within the Preston local authority area and/or intends to trade in another local authority area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence. Where the transferee proposes to operate remotely from Preston there will be a presumption that his licence will be revoked. Each case will be decided on its own merits.

4. Change of Vehicle – When a Proprietor Replaces a Licensed Vehicle

- 4.1 Applicants seeking the grant of a hackney carriage vehicle proprietor's licence for a vehicle intended to replace another licensed vehicle shall be asked to inform the Authority of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire to a material extent within Preston will not have the new licence granted. Even where the applicant intends to ply for hire to a material extent in Preston, if the intention is to trade in another local authority area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

5. Revocation of Licence

- 5.1 Where a licence has been granted under the terms that the applicant intends to ply for hire to a material extent within Preston but is subsequently found not to be plying for hire to a material extent in Preston and/or to be trading in another local authority area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) there will be a presumption that the licence will be reviewed by the Authority which could lead to the revocation of that vehicle licence.

6. Exceptional Circumstances

- 6.1 Each application will be decided on its own merits. However, the presumptions that intended use is to ply for hire to a material extent within Preston will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances it will be expected to be able to satisfy the Authority that it would not frustrate the purposes of the legislation or compromise public safety if the vehicle licence were granted, renewed or if it were not suspended or revoked.

7. Reasons for Policy

- 7.1 The Authority wishes to ensure that applications for the grant of hackney carriage vehicle proprietor licences are determined in accordance with the guidance given by the High Court in its judgement and the Declaration made in the case of Newcastle City Council v Berwick upon Tweed (2008).
- 7.2 The Authority is required to register the name of the new proprietor of a hackney carriage vehicle. Section 3 of this policy is intended to put the Authority in a position to respond responsibly to the transfer of a Preston hackney carriage into the name of someone who operates outside Preston or remotely from it.
- 7.3 Unless there has been a change in the vehicle proprietor's intentions with regard to plying for hire within Preston, there should be no reason why he should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained his first licence on the expressed intention of plying for hire to a material extent within Preston and who on application to replace that vehicle with another discloses that he no longer so intends, effectively engages the presumption against grant that is mentioned earlier.