

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 9 JUNE 2022

PRIVATE HIRE CAR LICENCES

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to update Committee on investigations into the use of motorised tricycles as private hire cars.

1. RECOMMENDATION

It is recommended that the Committee: -

- (i) considers whether to permit motorised tricycles to be licensed as private hire cars and if so;
 - (a) adopts the standard conditions applicable to motorised tricycle private hire vehicles, authorising officers to attach these conditions to licences which they issue under delegated powers (where no objections to nor adverse representations have been properly received and not withdrawn in relation to applications);
 - (b) adopts the vehicle specification checklist for the inspection of motorised tricycles;
 - (c) delegates authority to the Director of Legal and Democratic Services to appoint a suitable vehicle inspection facility to carry out the required inspections of any motorised tricycle; and
 - (d) considers whether to impose conditions relating to the area or sphere of operation of motorised tricycles as private hire vehicles.

2. BACKGROUND

- 2.1 The Committee, at its meeting of 13 January 2022 considered report 6/22 by the Director of Legal and Democratic services about a request to consider permitting motorised tricycles to be licensed as private hire cars in terms of the Civic Government (Scotland) Act 1982 ("the 1982 Act").
- 2.2 In terms of the 1982 Act, Angus Council resolved that a licence shall be required for the operation of a vehicle as a private hire car. A private hire car is defined as a motor vehicle with a driver (other than a vehicle being a public service vehicle within the meaning of section 1(1)(a) of the Public Passenger Vehicles Act 1981) which is, with a view to profit, available for hire by the public for personal conveyance. It should be noted that a private hire car and its driver cannot make arrangements in a public place for the conveyance of passengers there and then. Only licensed taxis and drivers are permitted to do this.
- 2.3 Section 10(2) of the 1982 Act provides that a licensing authority shall not grant or renew a taxi licence or private hire car licence unless they are satisfied that the vehicle to which the licence is to relate is suitable in type, size and design for use as a taxi or private hire car, as the case may be, and is safe for that use, and that there is in force in relation to the vehicle such a policy of insurance or such security as complies with Part VI of the Road Traffic Act 1972.
- 2.4 If the Committee is minded to licence motorised tricycles as private hire cars this may lead to further requests for the Committee to consider licensing other types of vehicles which do not meet the Council's current vehicle specifications. With respect to the suitability of type, size and design of private hire cars currently licensed, the Council's conditions currently provide that a private hire car shall be either:-
 - (a) a saloon or estate car with four doors, an internal luggage capacity of not less than 11.5 cubic feet, shall measure at least 48" across the back seat and shall be large enough

to carry no fewer than four and no more than five passengers (the seating capacity to be determined in accordance with Regulation 42 of the Road Vehicles (Registration and Licensing Regulations 1971); or

- (b) a vehicle permanently adapted to carry up to eight passengers, with transverse seats in an approved layout and use for hire or reward.”

3. REPORT

- 3.1 As indicated within report 6/22 the request for the Council to licence motorised tricycles as private hire vehicles was received from a business which is planning to offer motorised tricycle tours within and outwith Angus to tourists (starting and ending in Angus). An example of a motorised tricycle is shown at **Appendix 1** (“the proposed vehicle”). We are advised that it is proposed the vehicle would be driven by an employee of the business. Officers have advised that given the nature of this activity, the vehicle would require to be licensed as a private hire car and the driver licensed as a private hire driver.
- 3.2 The proposed vehicle would not meet the current requirements of the Council’s standard private hire car licence conditions. If the Committee is minded to licence motorised tricycles as private hire cars, new conditions would be required. Conditions proposed for motorised tricycles are shown at **Appendix 2**. In large part these conditions replicate the current private hire car licence conditions, however, some conditions have been omitted as inapplicable to motorised tricycles and some new conditions have been added, particularly to include measures for the safe use of motorised tricycles as private hire vehicles.
- 3.3 In order to satisfy the requirement of the 1982 Act as regards private hire vehicles’ safety, the vehicles are regularly inspected, currently at the Dundee Vehicle Test Centre. Angus Council’s arrangements with Dundee Vehicle Test Centre do not include provision for the inspection of motorised tricycles and the Centre has advised that it is unable to provide such inspections. If the Committee is minded to licence motorised tricycles as private hire cars an alternative inspection facility or facilities would require to be identified. With no arrangements having been made with such an alternative inspection facility, and in anticipation that numbers of applications will be small, it is suggested that authority might be delegated to the Director of Legal and Democratic Services to appoint a suitable inspection facility with respect to any individual application. The proposed conditions at **Appendix 2**, include a condition to this effect.
- 3.4 The vehicle inspections referred to in paragraph 3.3 above are carried out against a checklist. The current taxi and private hire vehicle checklist would not be wholly appropriate for inspecting motorised tricycles. An amended version of the checklist, proposed for the inspection of motorised tricycles, is shown at **Appendix 3**.
- 3.5 The Civic Government (Scotland) Act 1982 imposes restrictions on the operation of taxis and private hire vehicles based on the area in which their operation is licensed. Private hire car licences are currently issued in Angus for one of the following zones; Arbroath/Carnoustie; Forfar/Kirriemuir; Montrose/Brechin; and Monifieth /Sidlaw.

Section 21 of the Civic Government (Scotland) act 1982 provides; -

- (1) If any person—
- (a) operates, or permits the operation of, a taxi within an area in respect of which its operation requires to be but is not licensed or the driver requires to be but is not licensed,
- or
- (b) picks up passengers in, or permits passengers to be picked up by, a private hire car within an area in respect of which its operation requires to be but is not licensed or the driver requires to be but is not licensed, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (2) Subsection (1) above does not apply to the operation of a taxi or private hire car within an area in respect of which its operation or its driver is not licensed if the request for its hiring was received by its driver (otherwise than in a public place from the person to be

conveyed in it, or a person acting on his behalf, for a journey beginning there and then) whilst—

- (a) in the area or in that part thereof in respect of which its operation and its driver are licensed;
- (b) engaged on hire on a journey which began in that area or part or will end there; or
- (c) returning to that area or part immediately following completion of a journey on hire.

3.6 The request to licence motorised tricycles, referred to above, is from a business planning to offer motorised tricycle tours within and outwith Angus to tourists (starting and ending in Angus). If the Committee is minded to licence motorised tricycles as private hire cars consideration should be given to any restriction on the operation of motorised tricycles (which may include different business models). In view of the statutory requirement that private hire cars should be suitable in terms of type, size and design for their use as such, consideration should be given to whether motorised tricycles are suitable for use in the context of standard private hire booking, within town centres or the night-time economy and whether related restrictions should be imposed on their operation.

Regulation 3 (a) of the Licensing and Regulation of Taxis and Private Hire Cars and their Drivers (Prohibited and Required Conditions) (Scotland) Regulations 1986/1238 provides;

3. Prohibited licensing conditions

No licensing authority shall impose conditions under the 1982 Act on any taxi licence, private hire car licence, taxi driver's licence or private hire car driver's licence which would have the effect of—

- (a) limiting the operation of a taxi or private hire car to any of the following modes of operation, namely exclusive hire, carriage at separate fares or, in the case of a taxi only, provision of a local service;

3.7 Police Scotland have been contacted to ascertain their initial views of the proposal to licence motorised tricycles as private hire vehicles. They have highlighted the importance of maximising safety in the operation of private hire vehicles and in particular with respect to issues arising from the consumption of alcohol by passengers of motorised tricycles. A condition in this regard has been included within the proposed conditions at **Appendix 2**.

3.8 The business which has made the request referred to at 3.1 above has been invited to attend the Committee to address it on their proposal and answer any questions the Committee may have.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising as a result of this report.

5. OTHER IMPLICATIONS (IF APPLICABLE)

There are no human rights or equalities implications attached to this report.

6. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment has been carried out and is attached.

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

REPORT AUTHOR: Jennifer Burns, Legal Services
EMAIL DETAILS: LEGDEM@angus.gov.uk

List of Appendices:

Appendix 1 Motorised Tricycle Photographs

Appendix 2 Proposed Licence Conditions for Motorised Tricycles

Appendix 3 Proposed Vehicle Inspection Checklist

Equality Impact Assessment – Screening