



**INTENDED USE POLICY FOR THE LICENSING OF  
HACKNEY CARRIAGE VEHICLES**

JULY 2017

## **Introduction**

At Calderdale Metropolitan Borough Council, the Licensing and Regulatory Committee is authorised to discharge the functions of licensing and is referred to in the policy and The Licensing Authority.

For many years Calderdale has chosen to licence Hackney Carriage Vehicles within the Borough without imposing restriction on numbers, with the exception of the Halifax Town Centre Zone which is limited to 37 Vehicles.

The Licensing Authority had no control over whether these Hackney Carriage Vehicles work within the Borough of Calderdale. There has been an increase in the numbers of applicants applying for Hackney Carriage Licensed who intend to work as Private Hire drivers in other authorities.

The Licensing Authority has a duty to carry out the licensing functions relating to Hackney Carriage Drivers and Vehicles as set out within Legislation which includes:

- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Transport Act 1985

The purpose of the Hackney Carriage Intended Use Policy is to set out how the Licensing Authority will deal with the Licensing and Renewal of Hackney Carriage Vehicle Licenses.

It is difficult, to monitor hackney carriages licensed by Calderdale being driven in other areas of the Country.

The aim of the Intended Use Policy is to provide local control over Hackney Carriages and their drivers, for the protection of the travelling public.

The Licensing Authority is currently carrying out an unmet demand survey regarding the zoning and restrictions in the Halifax Town Centre Zone, the outcome of this survey may have an effect on the policy regarding the zones within the borough.

For clarification, a Hackney Carriage is what most people refer to as a 'taxi'. Its main features are:

- It carries passengers in return for payment
- It may advertise itself to be for hire and be hailed in a street in borough that it is licensed
- Or may be hired from a taxi-rank within the borough in which it is licensed

Within Calderdale a Hackney Carriage Vehicle can be distinguished as it will be white in colour with a taxi sign on the roof of the vehicle, self-adhesive door signs and rear vehicle plate. A Hackney Carriage Licensed within Calderdale may only ply for hire within the Borough of Calderdale. It can be distinguished from a Private Hire Vehicle which also carries passengers for reward, but must be pre-booked with a

private hire operator and cannot be hailed in the street or hired from a rank. Private Hire Vehicles within Calderdale cannot be white.

### **High Court Judgement**

The High Court judgement in Newcastle City Council v Berwick-Upon-Tweed Borough Council [2008] has provided some guidance as to an approach to be taken by a licensing authority when considering an application made to it for a hackney carriage licence by someone who does not intend to ply for hire in the area of the authority.

The Court concluded that, under section 37 of the Town Police Clauses Act 1847, a Local Authority had the discretion to refuse to issue hackney carriage licenses to those proprietors who had no intention of exercising their right to ply for hire in an area that was remote from that of the local authority. The intention behind the licensing system was that it should operate in such a way that the authority licensing the hackney carriages was the authority for the area in which those vehicles would generally be used. A local authority is entitled to have regard to whether the applicant intended to use the licence to operate a hackney carriage in that local authority's area.

The judge stated, "If hackney carriages are working remote from their Licensing Authority a number of, at least potentially, undesirable consequences follow. The Licensing Authority will not easily keep their licensed fleet under observation. It will be carrying out its enforcement powers from a distance. The licensing authority where the hackney carriage has chosen to operate will have no enforcement powers over the vehicle, although it is being used in its area."

The case also concluded that a Licensing Authority may in the proper exercise of its discretion under Section 37 of the Town Police Clauses Act 1847 refuse to grant a licence in respect of a hackney carriage that is not intended to be used to ply for hire within its area and/or is intended to be used (either entirely or predominantly) for private hire remotely from that authority. In addition, the case confirmed that in determining an application a licensing authority may require an applicant to submit information pursuant to Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 in order to ascertain the intended use of the vehicle.

### **The Policy**

#### **Applications for the new grant of a hackney carriage licence**

Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within Calderdale under the terms of the licence for which an application is being made.

There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within Calderdale will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits. Even where the applicant intends to ply for hire entirely or predominantly in

Calderdale, if the intention is to trade for a Private Hire Operator 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 compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

### **Applications for the renewal of a hackney carriage licence**

Section 60 of Local Government (Miscellaneous Provisions) Act 1976 also gives the Council a broad discretion to refuse to renew a licence for any reasonable cause and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

### **Applications for the transfer of a hackney carriage licence**

Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Licensing Authority whether he has a bona fide intention to use the vehicle to ply for hire within Calderdale. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 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. Where there is a failure to provide the requested information, the Licensing Authority will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.

New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within Calderdale under the terms of the licence in respect of the vehicle being transferred. If the new proprietor of a licensed hackney carriage is found to have no intention to ply for hire entirely or predominantly, 80% of their working week, within Calderdale and/or intends to trade for a Private Hire Operator 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 compromised) 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 under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate for a Private Hire Operator remotely from the administrative area of Calderdale there will be a presumption that his licence will be revoked. Each case will however be decided on its merits.

### **Applications for the replacement of a hackney carriage licence**

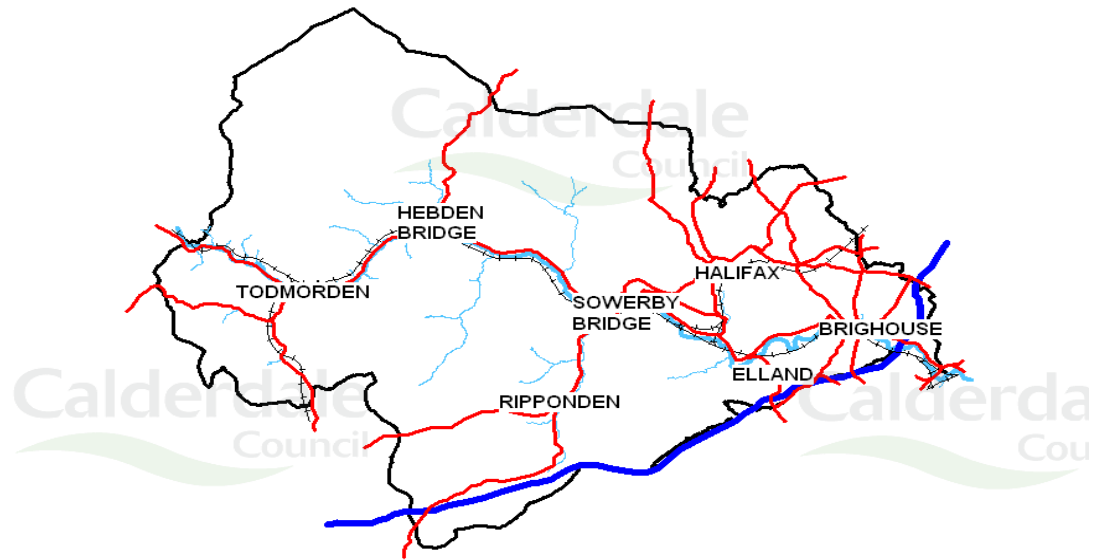
When a proprietor replaces a licensed vehicle, applicants seeking the grant of a hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Licensing Authority of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within Calderdale will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or

predominantly, 80% of their working week, in Calderdale if the intention is to trade for a Private Hire Operator 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 compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused. Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within Calderdale but is subsequently found not to be plying for hire entirely or predominantly in Calderdale and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) there will be a presumption that the licence will be revoked.

Each application will be decided on its merits. However the presumptions that intended use is to ply for hire entirely or predominantly, 80% of their working week within Calderdale 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, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Licensing Authority that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

### **At Application**

A declaration will be signed by all applicants, for new hackney carriage vehicle, transfer or renewal confirming that they intend to work within the boundary of Calderdale as shown below, 80% or more of the time they are working each week. If an applicant's vehicle is used outside of the Boundaries of Calderdale more than they have agreed to do so may result in the Suspension, Revocation or Refusal of the Hackney Carriage Vehicle Licence under Section 60 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1976.



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