

CYNGOR SIR POWYS COUNTY COUNCIL

LICENSING COMMITTEE

12th July 2004

REPORT BY: Group Director of Community Services

SUBJECT: Hackney Carriage Vehicle Licence Condition – Appeal to Magistrates’ Court

REPORT FOR: Information

1. INTRODUCTION

1.1 At the meeting of the Licensing Committee on 8th March 2004, consideration was given to a report concerning the seating arrangements of Multi Purpose Vehicles (MPVs) licensed as hackney carriages, or for private hire. A copy of that report titled, ‘Licensing of ‘People Carriers’ as Taxis’, is attached for reference.

1.2 The report was brought to the Committee at the request of the Brecknockshire Licensing Review Panel, which had earlier refused an application to licence a Seat Alhambra MPV as a hackney carriage for 6 passengers. Instead the Panel granted a licence for 5 passengers in accordance with the Council’s hackney carriage and private hire vehicle conditions. The condition that gave rise to the appeal is set out at 9(j) in Annex B to the attached report and states,

“All passengers shall have direct access to a door without the need to climb over the rear of any seat or the need to lower the back of any seat”.

1.3 The applicant, with the support of the National Private Hire Association, exercised a right of appeal to the Magistrates’ Court.

2. DECISION

2.1 The appellant was represented by counsel, who argued that the condition imposed on his client was unreasonable because it failed to take account of the following:

- i) The type approval given to the vehicle when manufactured;
- ii) The fact that the relevant legislation permits hackney carriages to carry up to 8 passengers;
- iii) The lack of any evidence to justify the alleged safety concerns;
- iv) The fact that absolute safety cannot be achieved by the imposition of this condition;

- v) The engineering implications (if any) of adapting the vehicle. It is submitted that it is for the respondent to satisfy itself (and on appeal the Court) as to the lack of any such implication when resolving to impose the condition.
- 2.2 Counsel for the respondent submitted that the condition was adopted for a legitimate purpose, namely the safety of passengers using hackney carriages. The rationale for the condition was clear. In the event of any accident or emergency, direct access and egress for passengers will promote their safety.
- 2.3 After considering evidence given by the appellant, and by the Environmental Health Manager for the respondent, and examining the vehicle in question, the Court dismissed the appeal.

Recommendation:	Reason for recommendation:
It is recommended that the report be noted.	To draw attention to the outcome of an appeal to Magistrates' Court against a local condition governing hackney carriage and private hire vehicles.

Relevant policy (ies):	
Within policy:	N/A
Within budget:	Y

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Background papers used to prepare report:

Skeleton Arguments On Behalf of the Appellant and Respondent