

Regulatory Committee

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Street Trader Licensing – Pedicabs: Update and proposed Licensing Conditions

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Executive Summary

This report presents a proposed update to the policy framework on the licensing of Pedicabs and sets out new proposed conditions to be attached to licences.

The report seeks approval to carry out a full consultation on the framework and policy intent, in line with statutory requirements.

The outcome of the consultation process will be reported back to Committee within six months.

Street Trader Licensing – Pedicabs: Update and proposed Licensing Conditions

1. Recommendations

- 1.1 It is recommended that Regulatory Committee:
 - 1.1.1 notes the content of this report;
 - 1.1.2 agrees to consult on the proposed draft policy framework and conditions, in line with statutory requirements; and
 - 1.1.3 agrees to receive a final report on the outcome of the consultation.

2. Background

- 2.1 The operation of pedicabs in the City is licensed by the City of Edinburgh Council by means of Street Trader licensing, in this instance with respect to the offering of a service (pedicab rides) for money or money's worth.
- 2.2 Pedicabs have operated in the city since 1996. At present there are four pedicab licensed companies, 70 licensed employees and approximately 120 pedicabs operating in the city centre.
- 2.3 The current licensing regime can be divided into two sections. Firstly, the regulation of the pedicab owners/operators and secondly the pedicab drivers/employees. The majority of current licences are issued to the owners of the pedicabs, who charge a rental for the use of the pedicab and then apply for employee licences for pedicab drivers, who in effect are self-employed. The owners of the pedicabs generally do not actually carry out any street trading activity, unlike the pedicab drivers who are street trading in their own right.
- 2.4 The operation of pedicabs within the city has previously given rise to a number of concerns about passenger safety. In April 2010, a man died after falling from a pedicab. In 2001, a woman was seriously injured when her neck scarf became entangled in the wheels of a pedicab.
- 2.5 The operation of pedicabs in Edinburgh is not unique. A number of other local authorities also have licensing regimes including Glasgow, Aberdeen, Dundee and Falkirk. A number of English authorities also operate pedicabs licensing, including Westminster Council.
- 2.6 In 2013, Police Scotland made representation to Glasgow City Council highlighting safety concerns regarding the operation of pedicabs, and in particular the lack of

protection afforded to passengers. No similar representations were made to this Council.

- 2.7 Reports prepared for Glasgow City Council and Police Scotland highlighted that:
- a) there is currently no official build standard for pedicabs and as such it would be impossible to assess the structural integrity of a pedicab or to conclude that a pedicab is considered safe for use by members of the public; and
 - b) that pedicabs did not have either a roll cage or three-point seat belts for each passenger considered necessary in providing reasonable safety for passengers travelling within a pedicab.
- 2.8 It was previously proposed that a further report should be jointly commissioned with Glasgow City Council in respect of pedicab passenger safety. Glasgow City Council decided not to take forward this option. In the absence of any current concerns about safety of pedicabs it is proposed not to pursue commissioning a further report.

3. Main report

- 3.1 The proposed policy framework and conditions are designed to address the concerns previously raised and offers a solution to the issue of pedicab safety.
- 3.2 It is proposed that the current system of regulating the operation of Pedicabs and their drivers is reversed to put far greater emphasis on the drivers who street trade on a day-to-day basis, and to align this with a more stringent set of conditions for the actual Pedicabs. The current licensing regime was designed when it was believed that riders were in fact employees of the Pedicab companies. It is now clear that each rider is in effect self-employed. Pedicab owners in the main only rent the Pedicabs and they do not carryout any street trading activity operate.
- 3.3 It is proposed that pedicab drivers should be licensed as street traders in their own right and that the Council should no longer issue employee licences for this type of activity. The driver would have to demonstrate that the pedicabs that they are operating on a day-to-day basis meet the conditions set out in relation to roadworthiness.
- 3.4 The pedicab operators who currently only rent vehicles and, in effect, are outwith the licensing regime, would no longer be required to hold a street trading licence in their own right. They would still be able to operate their business as long as the pedicabs used by drivers were inspected, records maintained and registered with the council. It is proposed that a new vehicle inspection fee is introduced to ensure that vehicle meet the new exacting standards.
- 3.5 The proposed policy establishes:
- a) a set of requirements for pedicabs as detailed in Appendix 1, sub section 2 - Conditions of Fitness for use as a Pedicabs, that must be met before a pedicab driver can operate; and

- b) a set of conditions for pedicab drivers as detailed in Appendix 1, sub section 3 – Conditions for Pedicab drivers.
- 3.6 The proposed condition sets out what is expected in respect of pedicab vehicle safety, conduct of drivers and what passengers can expect in terms of street trading activity.
- 3.7 During the initial stakeholder discussions one of the areas of concern related to the current area of operation, as detailed in Appendix 2 - Map of existing Pedicab trading area. The pedicab trade would like to see the area extended to cover far more of the city, including Roseburn and The Meadows. Representatives of the transport trade are concerned re public and road safety, and would like to see the area restricted in the west of the city stopping at Lothian Road - although they would have fewer concerns re the area extending south towards the Meadows.

Next Steps

- 3.8 In line with statutory requirements, the proposed policy framework and conditions is required to be consulted on. Initial discussions with stakeholders have helped shape the proposed changes to date. This included discussion with existing pedicab traders and transport providers. This initial consultation should now be expanded to include residents, community councils and the wider business community and relevant partners and agencies.
- 3.9 The scope of the consultation should also seek views on restricting or extending the existing trading area of operation.
- 3.10 A final report will then be prepared for consideration by the Regulatory Committee.

4. Measures of success

- 4.1 That the City's licensing function is modernised to ensure that it meets the needs of customers.
- 4.2 That any Licensing policy adopted balances appropriate protection of citizens with the need to ensure a minimum burden on economic development.
- 4.3 The review of Pedicabs is evidence led as part of a wide ranging and robust consultation process.
- 4.4 The revised Pedicab policy is suitable for the needs of the city and addresses concerns raised with the Council.

5. Financial impact

- 5.1 There is no direct financial impact on the Council. All costs are contained within existing budgets. The Council's scale of fees for licensing applications was approved with effect from 1 April 2017.

- 5.2 Any costs from implementing policy changes and research will be contained within the current ring-fenced income generated from licensing fees. There are no costs to the Council's revenue budget.

6. Risk, policy, compliance and governance impact

- 6.1 The development of policy in respect of licensing of Pedicabs is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the revised policy and conditions is consistent with these.
- 6.2 There is a statutory process for amending the policy and this approach is in line with the statutory requirements.

7. Equalities impact

- 7.1 An Equalities and Rights Impact Assessment will developed as part of the consultation process and any impacts, direct or otherwise, on any group of people with one or more protected characteristic, will be reported to the Committee.

8. Sustainability impact

- 8.1 There is no environmental impact arising from the contents of this report.

9. Consultation and engagement

- 9.1 Council officers have held a number of one to one meetings with relevant parties.
- 9.2 Changes to Pedicab policy and conditions will require a full consultation process involving the public, affected businesses, council officers and statutory agencies.

10. Background reading/external references

- 10.1 [Regulatory committee report Street Trader Licensing – Pedicabs 27 January 2012](#)
- 10.2 [Regulatory committee report Street Trader Licence - Pedicabs: Update on Outstanding Issues 20 June 2014](#)

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11. Appendices

Appendix 1 – Proposed policy and conditions on the licensing and regulation of Pedicabs

Appendix 2 - Map of existing Pedicab trading area

Appendix 1 – Proposed policy and conditions on the licensing and regulation of Pedicabs

1. Policy

- 1.1 In terms of section 39 of the Civic Government (Scotland) Act 1982, any person who carries out, or offers to carry out, a service in exchange for money or money's worth requires to hold a Street Trader's Licence.
- 1.2 Pedicabs (sometimes referred to as rickshaws) are a non-motorised type of tricycle designed to carry passengers in addition to the driver. Where pedicabs are offered as a service to members of the public in exchange for money or money's worth, the person offering that service requires to obtain a Street Trader's Licence.
- 1.3 The pedicabs that are the subject of this policy are those which are made available with a rider for the purpose of carrying passengers for payment or payments worth and not those pedicabs used for the carriage of goods, or which do not otherwise carry passengers for payment.
- 1.4 The policy covers the licensing of both drivers and their pedicabs.
- 1.5 While the City of Edinburgh Council recognises that pedicabs offer an alternative method of transport, it has adopted the following policy in the interests of public safety and prevention of undue public nuisance:-
- 1.6 Prior to a licence being granted the intended pedicab must be inspected by a **suitably qualified technician**. Thereafter they must be checked every 3 months to ensure that the pedicab remains in a **roadworthy** condition throughout the validity of the licence. The Licence holder shall maintain records of maintenance and inspections throughout the currency of the licence and shall provide them to the City of Edinburgh Council at any reasonable time on request
- 1.7 The pedicab shall comply with Pedal, Cycle (Construction and Use) Regulations 1983 and 2015, the Road Vehicles Lighting Regulations 1989 and any other legislation which affects the construction/lighting of the pedicab or pedal cycle.
- 1.8 In order to pass inspection, the pedicab must have:
 - a) 3 point seatbelts or lap belts for each passenger which will be adequate to retain the passenger in the pedicab and must bear an EC or BSI mark; and
 - b) a roll cage fitted for the protection of passengers travelling in the pedicab.
- 1.9 An inspection of a pedicab will include, but will not be limited to ascertaining the condition of the following:
 - a) Front and rear brakes
 - b) Front and rear lights
 - c) Operation of seats belts
 - d) Condition of tyres, wheels, spokes and roll cage
 - e) Reflectors
- 1.10 The pedicab can only operate within the area detailed in the attached map appendix (*to be added to final conditions*)

- 1.11 The licensed pedicab holder should comply with the National and Local legislation and the Highway Code relating to the use of a pedal cycle / pedicab on the road at all times, i.e. traffic signals, no entry signs and one way streets.
- 1.12 The presence of a licensed pedicab on the road shall not cause an obstruction nor shall it compromise the safety of its passengers or other road users. Accordingly where available, bus and cycle lanes should be used and pedicabs shall not be used within any pedestrianised area, including the following areas (*to be added to final conditions if required*), and must comply with Traffic Regulation Orders.
- 1.13 Although the Highway Code is not a legally binding document, the Road Traffic Act states that a failure to observe the Highway Code will not constitute an offence in itself but can be relied upon as evidence to establish or negate liability in legal proceedings for offences under other Acts such as the Traffic Acts.
- 1.14 Public Liability Insurance of not less than £5million must be in force in order that any losses sustained in the event of an accident can be recovered, either by passengers or by the other third parties.
- 1.15 The licensed pedicab holder will be required to demonstrate that they are eligible to work in the UK.
- 1.16 While this policy does not seek to limit the number of Street Trader licences issued in respect of the operation of pedicabs in the City, the City of Edinburgh Council will keep the number of such licences under review and may in future determine such a limit, having regard to the possibility of undue public nuisance or threat to public safety.
- 1.17 Advertising material may be displayed on a licensed pedicab, and do not require Local Authority approval, subject to the following criteria:
 - Advertisements should not contain political, ethnic, religious, sexual or controversial texts; advertise tobacco products; display nude or semi-nude figures; are likely to offend public taste; depict men, women or children as sex objects; depict direct and immediate violence to anyone shown in the advertisement or anyone looking at it; advertise any racist group or organisation which intends to promote the group/organisation and/or any of its activities.

1. Conditions of Fitness for use as a Pedicabs

- 2.1 The pedicab, a non-motorised type of pedal cycle, will be so constructed that it has a minimum of three wheels, one at the front and at least two at the rear.
- 2.2 The Pedicab shall comply with Pedal, Cycle (Construction and Use) Regulations 1983 7 2015, the Road Vehicles Lighting Regulations 1989 and any other legislation which affects the construction/lighting of the Pedicab / Pedal cycle.
- 2.3 The pedicab and all their fittings will be subject to a yearly inspection by a ***suitably qualified technician***. Thereafter they must be checked every 3 months to ensure that the pedicab remains in a **roadworthy** condition throughout the validity of the licence.
- 2.4 The licence holder shall maintain records of maintenance and inspections throughout the currency of the licence and shall provide them to the City of Edinburgh Council at any reasonable time on request.
- 2.5 The pedicab must be fitted with a minimum of one front position light and a minimum of two rear position lamps and two rear retro reflectors.
- 2.6 The steering wheel when turned to full lock will not affect the stability of the pedicab when turning.
- 2.7 There must be at least one mirror fitted to the offside of the pedicab in order to monitor other road users. A nearside mirror will also be permitted.
- 2.8 The floor covering of the passenger compartment must be of a non-slip material which can be easily cleaned. Any holds or handles to aid passenger access or egress should be clearly identified with high visibility markings.
- 2.9 Every pedicab licensed by the authority shall be fitted with 3 point seatbelts or lap belts which will be adequate to retain the passenger in the pedicab and must bear an EC or BSI mark.
- 2.10 Every pedicab licensed by the authority shall a roll cage fitted for the protection of passengers travelling in the pedicab.
- 2.11 Tyres must comply with the following requirements:-
 - a) tread pattern clearly visible over the whole tread area;
 - b) properly inflated;
 - c) no exposed cords; and
 - d) the load ratings of all tyres must be suitable for a pedicab when fully loaded
- 2.12 Any canopy or roof, when fitted to the pedicab must remain in a fixed position, achieved by means of a locking mechanism to secure the canopy or roof when raised or lowered, when conveying passengers.
- 2.13 The pedicab must be fitted with adequate guards or other fittings so as to prevent loose garments or other material being caught in the pedicabs chain, spokes or other moving parts. No alterations shall be made to the pedicab without the prior approval of the Licensing Authority.

- 2.14 All pedicab shall be required to be fitted with an audible warning instrument i.e. bell.
- 2.15 The drivers' controls and the surrounding area of the controls must be so designed that the driver has adequate room. The driver must be able to easily reach and quickly operate the controls and give hand signals when required.
- 2.16 The materials used to form the passenger seats should be waterproof so that they will not absorb or retain water and should be constructed of a suitable fire resistant material to BS 5852 Part 1, 1979 or equivalent.
- 2.17 Each pedicab shall be licensed to carry a driver and no more than 2 passengers at any one time.
- 2.18 The position of the drivers' seat must not be such that it restricts access or egress to the passenger compartment.
- 2.19 Each pedicab shall be fitted with an identification plate supplied by the Licensing Authority, any plate or other identification which has been issued by the City of Edinburgh Council shall be clearly displayed on the front and rear of the pedicab at all times so that it may be easily visible to members of the public.
- 2.20 The licence plates remain the property of the City of Edinburgh Council at all times and must be returned to the City of Edinburgh Council as and when required by these conditions.

3. Conditions for Pedicab drivers

- 3.1 The licence holder shall not be less than 18 years of age.
- 3.2 The licence holder will only operate within the area detailed in the attached map.
- 3.3 The licence holder shall not use, or permit the use of, the pedicab in any pedestrianised area as set out in the City of Edinburgh Council's policy on pedicabs from time to time or use any footways other than those that form part of a designated cycle way.
- 3.4 The licence holder shall at all times when trading wear the identity card which is issued with the licence. In addition the licence must be displayed on the pedicab in a position approved by the City of Edinburgh Council, so that they may be read by any passenger, police or authorised officers of the City of Edinburgh Council
- 3.5 The licence holder shall not lend to or allow any other person to use any licence or identity card issued by the City of Edinburgh Council.
- 3.6 The licence holder shall carry on business subject to any direction which the police or authorised officers of the City of Edinburgh Council may reasonably be required to give.
- 3.7 The licence holder shall ensure that the pedicab is properly maintained and complies with all relevant road traffic legislation including the Pedal Cycles (Construction and Use) Regulations 1983 & 2015 and the Road Vehicles Lighting Regulations 1989.
- 3.8 The licence holder shall ensure that, while the pedicab is in use, any plate or other identification which has been issued by the City of Edinburgh Council shall be clearly displayed on the front and rear of the pedicab at all times so that it may be easily visible to members of the public.
- 3.9 The licence holder shall on each occasion prior to commencing their shift ensure that all bodywork, upholstery and fittings is roadworthy, safe and serviceable.
- 3.10. The licence holder shall not carry more than two passengers at any one time, who must be safely restrained at all times while in the pedicab.
- 3.11 All children must occupy a seat and no person under the age of 16 shall ride unaccompanied without an adult.
- 3.12 Fares will be agreed with any passengers at the commencement of the journey and the licence holder will not charge or demand more monies at the end of that journey than the fare previously agreed upon at the start of the hire.
- 3.13 A written receipt will be given to each paying passenger and a copy kept by the operator.
- 3.14 The licence holder should comply with the National and Local legislation and the Highway Code relating to the use of the Pedicab on the road, i.e. traffic signals, no entry signs and one way streets.

- 3.15 The licence holder shall only use the audible warning instrument (i.e. bell) to let other road users know they are there when necessary and for no other purpose. i.e. it shall not be used to attract potential customers.
- 3.16 The licence holder shall not unreasonably obstruct road or footway users, affect their safety or obstruct access to public seating or waste bins.
- 3.17 The licence holder and pedicab shall not stand or loiter in any street for the purposes of attract potential customers.
- 3.18 The licence holder shall not engage in any anti-social behaviour or race other Pedicabs or road users i.e. endangering themselves passengers or other road users.
- 3.19 The licence holder must inform the City of Edinburgh Council of any change of address prior to the change, where possible, but in any event no more than 7 (seven) days after that change.
- 3.20 The City of Edinburgh Council must be informed immediately should the pedicab plate be broken, lost or defaced. On no account must the pedicab operate without a pedicab plate being displayed.
- 3.21 The licence holder shall hold a valid Public Liability insurance policy to the value of £5 million and the certificate of insurance will and available for inspection by any authorised officer of the City of Edinburgh Council at any time during trading hours and at any other reasonable time.
- 3.22 Any Authorised Officer of the City of Edinburgh or Police Constable shall be permitted to inspect any vehicle, at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with.

Appendix 2 - Map of existing Pedicab trading area

