

Agenda item	7
Report no	HLC/015/20

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 18 February 2020

Report title: Suitability of a tuk tuk for use as a taxi or private hire car

Report by: Solicitor – Regulatory Services

1. Purpose/Executive summary

- 1.1** Following a request from a member of the public querying whether he may make a taxi or private hire car licence application in respect of a tuk tuk, the committee is asked to decide whether, in principle, a tuk tuk is a suitable vehicle to be licensed as a taxi or private hire car (PHC).
- 1.2** A tuk tuk is, in very general terms, a vehicle with an engine and three wheels. For illustrative purposes only, an example of a tuk tuk can be found at **Appendix 1** to this report.

2. Recommendation

2.1 Members are asked to:

(1) note the initial consultation carried out with the Council's Transport team as set out at paragraph 3.7 of this report and with Police Scotland. A copy of Police Scotland's response is contained at **Appendix 2** to this report; and

(2) consider whether they are satisfied, in principle, that a tuk tuk is suitable in type, size and design for use as a taxi or PHC and is safe for that use.

3. Background

- 3.1** The licensing of taxis or PHCs under the 1982 Act is an optional activity. The Highland Council, as the Licensing Authority under the 1982 Act, has resolved, in terms of section 9 of the 1982 Act, to license taxis and PHC's. In order to obtain and hold a licence, the vehicle must comply with certain technical specifications.
- 3.2** Section 10(2) of the 1982 Act states 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 relates 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..."
- 3.3** This ties in with the key aims of the 1982 Act which states that it is "an Act to make provision as regards Scotland for the licensing and regulation of certain activities; for the preservation of public and order and public safety and the prevention of crime.."
- 3.4** The Highland Council does not have a specified list of vehicles that can be licensed as taxis or PHC's. However, vehicles have to meet the Council's minimum vehicle specification and pass an initial inspection to an acceptable standard of safety and comfort and thereafter an annual or biannual inspection. A copy of the specification is set out in **Appendix 3** to this report.
- 3.5** A member of the public has enquired to the Council as to whether they could obtain a taxi or PHC licence for a tuk tuk. As the vehicle does not meet the current minimum specification for a taxi or PHC, Members will have to decide first whether these types of vehicles are suitable for use as a taxi or PHC, having regard to public safety.
- 3.6** The member of the public who has expressed interest in his tuk tuk being licensed has answered some questions which will provide members with general details about the type of vehicle that is being considered. The details received are contained in **Appendix 4** to this report.
- 3.7** As previously stated, Police Scotland have been consulted on this matter and have indicated that they are unsupportive of the proposal on the grounds of public safety. The full response can be found at **Appendix 2** to this report. The Council's Traffic Management and Control Team have also indicated that they are unsupportive of the proposals and stated that they agreed with commentary made by Dumfries and Galloway Council's transport team when they were consulted on a similar proposal. Concerns raised by their transport team included the vehicle's lack of safety devices and the specification of the vehicle for rural roads.

4 Observations on representations

- 4.1** The response from Police Scotland highlights two main concerns, road safety and obstruction to other traffic. These are both considerations that the committee must take into account when assessing the suitability of this type of vehicle as a taxi or PHC. Members should consider not only the safety of passengers but also of other road users.

- 4.2** The response from the tuk tuk owner gives Members an idea of the specification of a tuk tuk. It is not intended to be a detailed or comprehensive summary of the vehicle but to provide Members with information regarding the basic features of the vehicle and how it functions. Should Members approve this type of vehicle for licensing, in principle, a more detailed specification would need to be gathered.
- 4.3** The tuk tuk owner has also listed a number of local authorities that currently license tuk tuks. In Scotland, only Aberdeen City Council and Argyll and Bute Council license tuk tuks as taxis or PHCs. Aberdeen City Council license vehicles under three separate categories; taxis, private hire vehicles and special events private hire vehicles. Members of the Aberdeen City Council Licensing Committee resolved in 2018 to include tuk tuks as a type of vehicle that can be granted a special events private hire vehicle licence. There is currently one tuk tuk licensed in Aberdeen which was granted against a police objection on the grounds of safety. Although Aberdeen City Council have a special events private hire vehicles category, the legislation doesn't differentiate between different types of private hire vehicles nor the way they choose to operate.
- 4.4** Argyll and Bute Council have a list of approved vehicles types and "trikes" are listed as an approved vehicle type for private hire cars, which would include tuk tuks.
- 4.5** In September 2019, Dumfries and Galloway Council Licensing Committee considered whether, in principle, tuk tuks should be licensed as taxis or PHCs. Members agreed with Police Scotland and the council's own Transportation Manager that a tuk tuk was not suitable type, size and design for use as a taxi or private hire car as the vehicle did not offer sufficient protection to passengers in the event of an accident and was not suitable for the types of road in the area.

5. Procedure

- 5.1** Should the Committee be of the view that tuk tuks are, in principle, suitable to be licensed as taxis and PHCs, as tuk tuks are very specialised vehicles, Officers will likely require to take the following steps:
- Gather detailed information regarding the safety features of tuk tuks for their use as a taxi or PHC (from an external expert if so required)
 - Create suitable testing specifications for tuk tuks as the current specifications do not conform to this type of vehicle
 - Create new standard conditions specific to this vehicle as the current conditions would not conform to this type of vehicle
 - Ensure that the testing stations that are used by the Council for carrying out vehicle inspections have both the appropriate facilities and expertise for testing this type of vehicle
- 5.2** Following on from the steps above, a further report would then need to be put before Members to consider fully the correspondence received with a view to making a final determination as to whether tuk tuks are suitable in type, size and design for use as a taxi or PHC in terms of public safety.

6. Implications

- 6.1** As tuk tuks are very different in type to the vehicles that are currently licensed as taxis and PHCs, Officers may not have the expertise in house to create new testing specifications and conditions. Should that be the case, external expert advice would be required.

Date: 5 February 2020

Author: Iain Meredith

Background Papers: Civic Government (Scotland) Act 1982

Appendices:

Appendix 1 – Example of a tuk tuk

Appendix 2 – Police Scotland's response

Appendix 3 – The Highland Council's minimum specification for taxis and PHC's

Appendix 4 – Specification of proposed vehicle





23rd January 2020

Your Ref:

Our Ref: TUK TUK

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IV2 3SY

Clerk to the Highland Licensing Board
Town House
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Inverness
IV1 1JJ

Tel. 01463 720817

Dear Sir/Madam

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982 SECTION 10(2)
SUITABILITY OF A TUK-TUK AS A TAXI OR PRIVATE HIRE VEHICLE
POLICE OBJECTION**

I have been informed by the Highland Council that a Tuk-Tuk is currently being operated in Wick, and that the operator, Mr. Rehan Amin, wishes the vehicle to be licensed as a Taxi or Private Hire Vehicle.

I am aware that the operator has been informed by the Highland Council that the Tuk-Tuk does not meet the Council's specification with respect to its size, type and design. However, Mr. Amin has requested that the Licensing Committee consider a report that the Tuk-Tuk be considered suitable as a Taxi/Private Hire Vehicle.

I am of the opinion that the design and operation of a Tuk-Tuk deems it as an inappropriate and unsuitable vehicle to be used as a Taxi or Private Hire Vehicle, and on the grounds of public safety, I would object to any proposal to licence Tuk-Tuks by the Highland Council for this purpose.

I have consulted with Inspector Donald Mackinnon from the Roads Policing Department in the Highlands & Islands Division. He is also of the opinion that a Tuk-Tuk is not suitable for use as a Taxi or Private Hire Vehicle. He has provided the following response:

Taking into account the following considerations, I do not recommend Tuk-Tuk use for taxi/private hire business.

Background

The Tuk-Tuk, also known as an Auto Rickshaw, is a motorised development of the traditional pulled or cycle rickshaw. The most common version comprises of a sheet-metal body or an open frame resting on three wheels. They have a canvas roof with drop down side curtains. There is normally a small cabin for the driver with handlebar controls, and another compartment in the rear for passengers. They are most popular

in countries with tropical and sub-tropical climates and in particular, developing countries.

Safety concerns

Some of the safety issues with the Tuk-Tuk are due to their type, size and design. Due to the Tuk-Tuk having only 3 road wheels and a relatively short narrow wheel base, there are concerns regarding stability which is easily compromised whilst negotiating roundabouts and various corners within built-up/residential areas. If the Tuk-Tuk approached and attempted to negotiate these hazards at an inappropriate speed, it would be susceptible to tipping over.

There is little protection afforded to the occupants of a Tuk-Tuk, with the only cover being a canvas roof in this case. Safety features are virtually non-existent with no airbags and no side protection other than the canvas or metal sheet. These are vital safety features that protect occupants of vehicles in road traffic collisions and in turn reduce the number of casualties on our roads.

Tuk-Tuks are generally only fitted with lap belts due to their very compact nature, there is little room between the passengers and the vehicle extremities. Therefore if a Tuk-Tuk is involved in a road traffic collision, there is a greater potential for the occupants to be seriously injured or killed.

There is also a concern surrounding the lack of lighting on Tuk-Tuks which may make them difficult for other road users to see. Areas with limited or poor street lighting will increase the risk to the occupants.

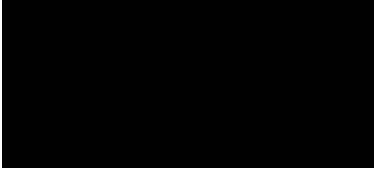
Given the nature of the taxi/private hire business, some passengers/customers will be more vulnerable due to their age, size or demeanour. Some may be affected by alcohol and therefore are at a greater risk of falling from the Tuk-Tuk. Given the fact that the top speed can reach in excess of 40mph, falling from the vehicle at this speed could have devastating consequences.

In addition, I understand that the operator intends to utilise his Tuk-Tuk on roads along the North Coast 500 route as a licensed taxi, and as such, I would also have concerns that the vehicle could cause obstructions on an already very busy road network due to its limited speed. This, in turn could potentially increase the risk of a road traffic accident.

I am also aware that a similar proposal was brought before the Licensing Committee in Dumfries & Galloway in 2019, which was refused by Committee members, and I would urge the Highland Council Licensing Committee to also refuse any application in relation to this proposal on the grounds of public safety, and the vehicle not being fit for purpose.

Should the Committee agree to the licensing of Tuk-Tuks as taxis or private hire vehicles, then any subsequent applications submitted for such vehicles to be licensed will be the subject of a police objection, on the grounds of public safety, and the vehicle not being fit for purpose.

Yours sincerely



Ch. Supt. George Macdonald
Divisional Commander

For enquires please contact the Licensing Department on 01463 720817.

The Highland Council's minimum specification for taxis and PHC's

Any vehicle proposed to be used a Taxi or Private hire car must:-

- (i) except with the approval of the Council, be less than five years old, unless it is a purpose built taxi, or equivalent, in which case it must be less than ten years old;
- (ii) be equipped to carry a minimum of four adult seated passengers (up to a maximum of eight adult seated passengers) in safety and comfort;
- (iii) have a minimum engine capacity of 55kw or 1575cc;
- (iv) have a minimum width of 122 centimetres (48 inches) across the rear passenger seat or compartment of the vehicle;
- (v) have a minimum of four doors capable of being opened from the inside;
- (vi) be fitted with a seat belt for each passenger;
- (vii) pass an initial inspection to an acceptable standard of safety and comfort and thereafter an annual inspection (except where the vehicle is older than five years the inspection period shall be every six months)

Vehicle Testing Specifications

Items Tested

The following are items included in the Taxi and Private Hire Car Inspections which fall into two groups: (see attached lists)

Appendix A - Safety Aspects: Any item in this group is expected to reach the MOT standard where applicable and will otherwise be judged by the examiner on the basis of being safe with respect to the carrying of passengers for hire and reward.

Appendix B - Appearance and Utility Standards, both for the interior and exterior of the vehicle.



Driver & Vehicle
Standards
Agency

MOT Inspection Check List

MOT Test Number	Registration Mark	Vehicle Identification Number	Date of First Use

Items to be tested	Pass	Fail	Defects/Comments
Interior checks			
Seats and seat belts			
Warning lamps			
Switches (position lamp, headlamp, hazards)			
View to front, wipers & washers			
Brake controls, servo operation,			
Steering wheel & column			
Doors, mirrors, horn			
Speedometer, driver controls (Class 5 only)			
Exterior checks			
Registration plates			
Lamps, registration plate lamps			
Indicators, hazards			
Headlamps & aim			
Stop lamps, fog lamps, reflectors			
Wheels, tyres			
Shock absorbers			
Mirrors, wiper blades, fuel tank cap			
Glazing (Class 5 only)			
Doors, boot lid, loading doors, bonnet			
Towbars			
General condition of body			
Under bonnet checks			
Vehicle structure			
Braking systems			
Exhaust systems, fuel system			
Speed limiter (if applicable)			
Steering & power steering components			
Suspension components			
Under vehicle checks			
Steering including power steering			
Drive shafts (if applicable)			
Suspension, shock absorbers			
Wheel bearings			
Wheels & tyres			
Brake systems & mechanical components			
Exhaust system			
Fuel system & fuel tank			
Structure, general vehicle condition			
Emissions			

Brake Test	Service	L	Park	L	Imbalance
Axle 1 N/S			N/S		Axle 1 N/S
Axle 1 O/S			O/S		Axle 1 O/S
Axle 2 N/S			Total		Difference
Axle 2 O/S					Results
Total			Service	Park	Imbalance

Additional Safety Checks

1. The inspection of the following items will also be undertaken
 - a. The presence and condition any spare wheel/puncture repair/other inflation kit.
 - b. The adequate security of the battery.
 - c. Where the vehicle has been adapted to run on LPG, the safe condition of LPG fuel system.
 - d. Where any vehicle has been adapted for disabled wheelchair access, the compliance of these adaptations with current recognised standards and as to general safety in use.
 - e. Where any vehicle has been the subject of an official recall, that any remedial works have been carried out.

Vehicle Appearance and Utility Standards

2. This includes presence, cleanliness, security and functionality of items listed below.
 - a. That equipment required is present, functional and compliant with specified standards.
 - b. That other relevant equipment is consistent with the vehicle manufacturers' specifications, e.g. a vehicle that was originally fitted with interior lights still has them and they function effectively.
 - c. The standards of cleanliness and appearance of the vehicle are consistent with what a reasonable person would expect in relation to this class of public transport.
 - d. That the bodywork meets the fair wear and tear standard of the British Vehicle Rental and Leasing Association. Note: The BVRLA fair wear and tear guide provides an industry-wide, accepted standard that defines fair wear and tear on passenger cars, this include guidance on dents and scratches.

INTERIOR	
Upholstery	Internal bodywork
Door & Window controls	Heaters
Luggage security	Fire Extinguisher – 1kg Dry Powder, suitably fastened and maintained

First Aid Kit compliant with the Road Vehicles (Construction & use) Regulations 1986 Schedule 7	Interior Lights
Carpets & Mats	
EXTERIOR	
Bodywork, Paint finish and Decorative/ Functional Trims	Glazing
Door, Bonnet and Boot Lid Hinges, Handles and Locks	Any Roof Rack or Roof Box
Roof Sign	Wheels & Trims

MECHANICAL

3. In addition to the above, any oil leaks from the engine, gearbox and axles will be assessed as to their significance with respect to the likely future reliability of the vehicle in use.

Note: Where no relevant published standards are available to assess compliance or otherwise, the test criteria will be agreed between the contractor and the Council.

Converted vehicles - Applicants for a taxi or private hire car operator licence where a van or vehicle has been converted to a minibus must submit a copy of the valid SVA (single vehicle approval) or certificate of fitness in respect of the vehicle.

APPENDIX 4

Q -How many doors does the vehicle have?

A - None. Rain curtains roll down when required

Q - How many passengers does the vehicle sit in total?

A - approved for 3

Q – What is the make and model of the vehicle

A - Bajaj RE 4S

Q – What is the size of vehicle engine?

A -198cc

Q – What is the maximum speed of the vehicle?

35mph

Q - Is it approved and registered by the DVLA?

A - Yes - fully approved and inspected by DVSA.

Q - Does it have a European Certificate of Conformity?

A - No

Q - Where is the steering wheel located (off-side or middle)?

A - Middle handlebars

Q - How many wheels does the vehicle have?

A - Three

Q - How many windows does the vehicle have and what is the location of the windows (side, rear etc)?

A - Front windscreen

Q - Is there any internal lighting?

A - Yes

Q - Is there adequate heating?

A - Yes, can be installed if required

Q - Is there adequate luggage space?

A - Yes

Q - What powers the vehicle?

A - 198cc 4 Stroke petrol engine

Q - Is there any other information that you deem relevant?

A - Already approved in Chester, Coventry, Pembrokeshire, Aberdeen, Argyle & Bute