

Licensing of Taxis and Private Hire Vehicles – Amendment to Condition relating to Window Tinting

Report by Derek Oliver , Chief Officer Place

Report for Decision

1 Recommendations

Members are asked to consider the content of this report and to decide whether to adopt the suggested amended licensing condition, or a variation of, in relation to tinting/light transmission in taxi and private hire vehicle windows,

The proposed condition:

“The windscreen, all windows and glass partitions (where fitted) must be made of safety glass in accordance with the British or European Standard in force at the time of approval.”

“The minimum level of light transmission in the glass contained in the front windscreen (75%) and the doors for the front passenger and driver (70%), when measured against the light meter at the Taxi Examination Centre, must comply with the standard specified in Section 32(10) of the Road Vehicles (Construction and Use) Regulations 1986.”

“The minimum level of light transmission in the glass contained in all other windows, excluding the rear tailgate window, when measured against the light meter at the Taxi Examination Centre, must be a minimum of 70%.”

“The minimum level of light transmission in the glass contained in the rear tailgate window, when measured against the light meter at the Taxi Examination Centre, must be a minimum of 30% and should not be reduced from the factory fit option by the addition of any film, temporary tint material, or replacement glass.”

2 Purpose of Report/Executive Summary

To inform Members regarding trade concerns in relation to Midlothian Council’s current position on window tinting in taxi and private hire vehicles and to consider whether the relevant taxi and private hire licensing conditions in this regard should be amended.

Members will wish to be aware that the full suite of taxi licensing conditions are being reviewed and will shortly be presented for consideration, however this matter of window tinting is of current significance to the trade.

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3 Background

3.1 This report concerns the specific issue of window tinting in taxis and private hire vehicles. A wider report recommending a review of all taxi and private hire licensing conditions will be forthcoming in due course.

3.2 A small number of private hire operators have recently expressed frustration at the Council's current licensing condition specifically relating to window tinting. For both taxis and private hire vehicles, the condition currently reads:

"The maximum permitted level of tint in the glass contained in the front windscreen and the doors for the front passenger and driver, when measured against the light meter at the Taxi Examination Centre, is 25% in terms of the Construction and Use Regulations; and the level in respect of all other window glass is 35% + or – 2%."

3.3 The concerns expressed by the trade relates to the fact that increasingly, suitable vehicles cannot be purchased without a higher tint level as standard in the windows rear of the driver. A recent known example of this is a Ford Journey (wheelchair accessible) which as standard comes with AS3 privacy glass* in the rear side and rear tailgate windows. This type of glass often has a light transmission of less than 70%, (i.e., greater than 30% tint). In this particular case, although the rear side windows could be replaced at significant cost, the tailgate window could not. Many vehicles are now being manufactured with less than 70% light transmission for windows rear of the driver.

3.4 The legislation relating to this matter is contained in Section 32(10) of the Road Vehicles (Construction and Use) Regulations 1986. Table II of that section lays down the requirements for all roadworthy vehicles as follows:

<i>Class of Vehicles</i>	<i>Windows</i>	<i>Minimum Percentage light transmission</i>	<i>Officer Comment</i>
Motor vehicles first used before 1st April 1985	All windows	70	i.e. a tint level no greater than 30%
Motor vehicles first used on or after 1st April 1985 and trailers	(a) Windscreens	75	i.e. a tint level no greater than 25%
	(b) All other windows	70	i.e. a tint level no greater than 30% and not relating to windows behind the B-pillar

Although windscreens must allow visual transmission of light of 75%, all other windows must have a visual transmission of light of not less than 70%,

equivalent to a maximum tint of 30%. However, Regulation 32 (11) goes on to state that this standard does not apply to windows through which the driver when in the driver's seat is unable at any time to see any part of the road on which the vehicle is waiting or proceeding. This is commonly interpreted to mean windows that are rear of the B-pillar. This is located between a vehicle's front and rear side glass and serves as a structural support to the roof.

3.5 Compared to this legal standard with Midlothian Council's current conditions, Midlothian currently apply a stricter level of permitted tint for the front side windows, maximum 25% instead of legally permitted maximum 30%. In addition, a maximum permitted tint of 35% for all other windows goes beyond what is legally required as there is no standard set in legislation for windows rear of the B-pillar.

3.6 Scottish Government

3.6.1 Scottish Government guidance on this particular issue is sparse. The most recent and relevant publication, "Taxi and Private Hire Licensing - Best Practice for Licensing Authorities and Taxi and Private Hire Operators - 3rd Edition, May 2023," makes no reference to the tinting of windows but concentrates more on security measures such as partition screens and CCTV. CCTV has been suggested by the taxi and private hire licensing trade as a mitigating measure to remove concerns around tinting.

3.6.2 However, for information, there has been some movement on this topic in England. The UK Government publication, "Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England – updated Nov 2023", which references the same legislation, namely the Road Vehicles (Construction and Use) Regulations 1986, makes the following points:

1. It acknowledges that there are no rules for levels of tinting to the windows rear of the B-pillar and vehicles are often manufactured with glass in the rear that is darker than the front, especially in luxury, estate and people carrier style vehicles.
2. There is a significant cost and inconvenience associated with requiring drivers to replace the standard manufacturer or factory specifications for window glass. Some passengers may feel more comfortable in vehicles that do not have very heavily tinted rear windows but there is a lack of evidence to suggest that these are detrimental to public safety.
3. Balancing these factors, the Government considers that licensing authorities should not require the removal of windows rear of the B-pillar if they have a minimum light transmission of 30% or above (up to max 70% tint). This should maintain passenger confidence whilst ensuring a wide range of vehicles may be licensed.
4. The department recognises that a minimum light transmission of 30% for windows rear of the B-pillar might impact on executive hire vehicles, where passengers demand a higher degree of privacy. Some licensing authorities

already grant executive hire vehicles plate exemptions, and they could determine that an exemption from the 30% minimum light transmission level for these vehicles is appropriate. Authorities should be assured that those vehicles are not used for 'normal fares'.

3.7 Police Scotland

3.7.1 Police Scotland have also contributed to the debate on this issue. In response to an appeal made to Midlothian Council by a taxi operator in 2017, following a vehicle failing an inspection due to excessive tinting in the rear window, Police Scotland were asked to comment. Note that the licensing condition being applied at that time was the same as listed above in Section 3.2. The then Chief Constable responded as follows:

“The purpose of the conditions relating to window tints is to allow an unrestricted view into the vehicle at all times. From a policing perspective this is to allow officers to clearly see if a Private Hire Car or Taxi is carrying passengers. This is important as there are aspects of enforcement of licensing conditions and road traffic legislation that are affected by the carriage of passengers. The Police Service of Scotland fully supports Midlothian Council in its position of maintaining standards in terms of window tints.”

3.7.2 A more recent response by Police Scotland on this matter (September 2024) has confirmed that they would be agreeable to a more flexible approach in relation to the rear window. The Cab Inspector at St. Leonard's Police Station in Edinburgh stated the following:

“It is of use to Police Scotland to be able to see within the rear of the vehicle to establish if there are passengers, as some road traffic legislation, and indeed conditions differ depending on whether there is someone in the rear or not. It may also be the case that potential customers would be more satisfied going into a vehicle into which anyone can see for safety reasons, especially at night, or when travelling in a licensed vehicle alone.

Our preference would be not to allow tint in the rear windows for the reasons provided, but I do understand the argument from the trade re the availability of non-tinted windows on the market.”

3.7.3 When subsequently asked if Midlothian Council were to relax its condition for the rear tailgate window only, would this excessively impinge on the Police's ability/preference to see into the vehicle? It was explained that this question was only being directed in relation to the tailgate window as many wheelchair accessible vehicles now have tinting of this window as standard, which in some cases cannot be replaced. His reply was as follows:

“If the sides were still visible then officers would be able to see in from the front/side. I would be more comfortable with that, given that if officers were in any doubt, then they are able to pull the vehicle over and check whether they have passengers on board or not.”

3.8 Other Councils

3.8.1 To further assist Members in forming an opinion on this, it is appropriate to consider the equivalent conditions and views of our neighbouring licensing authorities. Comments were taken from East Lothian Council, Edinburgh City Council and West Lothian Council and are summarised in Sections below.

3.8.2 East Lothian Council

The relevant licensing condition states:

“The vehicle must have windows at the sides and rear and be of such transparency as to enable the driver and passengers to be seen from outside the vehicle.”

“For vehicles used on or after 01 April 1985 the light transmitted through the windscreen must be at least 75%. The front side windows must allow at least 70% of light to be transmitted through them. All rear windows must allow at least 40% of light to be transmitted through them.”

3.8.3 Edinburgh City Council

The relevant licensing condition states:

“The windscreen, all windows and glass partitions (where fitted) must be made of safety glass in accordance with the European Standard in force at the time of approval and be capable of affording an unrestricted view of the vehicle interior. An unrestricted view may permit a tint of up to 25% (+/-2%).”

3.8.4 West Lothian

The relevant licensing condition states:

“The windscreen and all windows and glass partitions (where fitted) must be safety glass in accordance with the European Standard in force at the time of approval and be of a clear material or the manufacturer’s fitted comfort glass giving unrestricted vision to the vehicle interior. Other types of tinted glass are not permitted.”

This condition has remained unchanged since 2011.

3.9 Conclusions

3.9.1 There is some variation in the conditions currently set by our neighbouring Local Authorities. Although Midlothian Council’s current conditions are already in line with what is legally required, we do however have a higher standard than what is legally permitted. This affects in particular, the front passenger and driver door windows, namely by raising the permitted level of tint to 30% instead of 25% (70% light transmission instead of 75%). This represents a

small but necessary relaxation in our current position relating to those windows.

- 3.9.2** Secondly, in relation to the remaining windows to the rear of the B-pillar, the views of Police Scotland should perhaps take precedent due to concerns in relation to the prevention of crime. They remain concerned about not being able to see into the vehicle although appear to be more flexible regarding the rear tailgate window.
- 3.9.3** Balanced against this is the best practice guidance now being applied in England. It stipulates that licensing authorities should not require the removal of windows rear of the B-pillar if they have a minimum light transmission of 30% or above (up to max 70% tint). This policy has been sighted by the trade who are currently experiencing difficulties in sourcing suitable vehicles, or which require adaption at significant cost to comply with Midlothian Council's present conditions.
- 3.9.4** Darker tinted windows fundamentally make it more difficult to see into the rear of a vehicle. For licensed vehicles this presents a number of matters which require further consideration:
- Vulnerable passengers, for example young persons, the elderly and lone females may feel safer in a vehicle where they can be clearly seen from the outside.
 - Passengers are unable to see into the vehicle and would be unaware if someone was already in the vehicle again posing a potential risk to the passengers
 - Activities taking place in the vehicle cannot be viewed from the outside posing a potential risk to both passengers and the driver.
 - It is desirable that enforcement officers can see into the vehicle to carryout compliance and enforcement activity, i.e. to see that the maximum number of passengers that the vehicle is licensed to carry is not being exceeded and that all passengers are wearing seat belts.
- 3.9.5** Taking this all into account, Members are being asked to consider what view to take in relation to the level of permitted tint in the rear windows. Members may consider that by relaxing the standard applied to the rear tailgate window only, that this may provide an appropriate compromise at this point.
- 3.9.6** To assist Members, an appropriate replacement condition could be worded as follows. Please note that levels are now being expressed in terms of light transmission instead of % tint as that is the unit of measurement applied in legislation:

“The windscreen, all windows and glass partitions (where fitted) must be made of safety glass in accordance with the British or European Standard in force at the time of approval.”

“The minimum level of light transmission in the glass contained in the front windscreen (75%) and the doors for the front passenger and driver (70%), when measured against the light meter at the Taxi Examination Centre, must

comply with the standard specified in Section 32(10) of the Road Vehicles (Construction and Use) Regulations 1986.”

“The minimum level of light transmission in the glass contained in all other windows, excluding the rear tailgate window, when measured against the light meter at the Taxi Examination Centre, must be a minimum of 70%.”

“The minimum level of light transmission in the glass contained in the rear tailgate window, when measured against the light meter at the Taxi Examination Centre, must be a minimum of 30% and should not be reduced from the factory fit option by the addition of any film, temporary tint material, or replacement glass.”

4 Report Implications (Resource, Digital and Risk)

4.1 Resource

There are no costs to the Council as a consequence of this report.

4.2 Digital

None

4.3 Risk

The recommendations contained in this report do not present any additional risks to the Council. Should Members decide to amend the current taxi and private hire vehicle licensing condition regarding the current level of permitted tint in the rear tailgate window, it is considered that this will have a very minimal effect on the detection of crime as members of the public and enforcement offices will still be able to see into the vehicle from the side windows. Reputational risk may also be reduced relevant to the taxi and private hire vehicle operators as additional costs will not be incurred.

4.4 Ensuring Equalities (if required a separate IIA must be completed)

The content of this report has no effect on equality issues.

4.4 Additional Report Implications (See Appendix A)

See Appendix A

Appendices

Appendix A – Additional Report Implications

Appendix B – Background information/Links

APPENDIX A – Report Implications

A.1 Key Priorities within the Single Midlothian Plan

- The proposals contained in this report will contribute to the achievement of reducing the gap in economic circumstances by potentially reducing costs to local businesses.

A.2 Key Drivers for Change

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

A.3 Key Delivery Streams

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious
- None of the above

A.4 Delivering Best Value

By considering their views, this report contributes to delivering best value for local taxi and private hire operators.

A.5 Involving Communities and Other Stakeholders

Significant stakeholders, namely Police Scotland, other local authorities and the licensing trade have all been involved in formulating the recommendations contained in this report. A full consultation has not been undertaken with the trade given that the proposal is to slightly relax the current condition and there is no requirement that existing vehicles need be altered or replaced.

A.6 Impact on Performance and Outcomes

None

A.7 Adopting a Preventative Approach

This report helps to prevent discontentment and unnecessary costs incurred by local taxi and private hire operators.

A.8 Supporting Sustainable Development

No significant impacts.

APPENDIX B

Background Papers/Resource Links

[The Road Vehicles \(Construction and Use\) Regulations 1986
\(legislation.gov.uk\)](https://www.legislation.gov.uk)

[Taxi and private hire car licensing: guidance - third edition - gov.scot
\(www.gov.scot\)](https://www.gov.scot)

[Taxi and private hire vehicle licensing best practice guidance for licensing
authorities in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

*AS3 = AS3 glass is a darker tint and is often referred to as privacy glass. AS3 glass is most commonly used by vehicle manufacturers in the side rear windows, and the rear windshield.