

**REPORT TO BUSINESS SERVICES' LICENSING SUB-COMMITTEE –
2 SEPTEMBER 2022**

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
IMPLEMENTATION OF LICENSING SCHEME TO LICENCE TRI-WHEELED
VEHICLES FOR USE AS A TAXI OR PRIVATE HIRE CAR**

1 Executive Summary/Recommendations

1.1 Following an inquiry from a member of the public querying the possibility of making an application for a taxi or private hire car licence in respect of a Tuk Tuk, Members are asked to decide whether they are, in principle, willing to implement a licensing scheme to allow tri-wheeled vehicles to be licensed to operate in Aberdeenshire as a taxi or private hire car (PHC).

1.2 The Sub-Committee is recommended to:-

1.2.1 Note the request received for Aberdeenshire Council to consider implementing a licensing scheme to licence tri-wheeled vehicles for use as a taxi or private hire car;

1.2.2 Acknowledge the current requirements relating to private hire vehicles; and

1.2.3 Determine whether to instruct officers to conduct further investigations into the use of tri-wheeled vehicles as private hire vehicles and the potential terms by which they could be licensed and report back to a future meeting of this Sub-Committee with their findings.

2 Decision Making Route

2.1 The licensing of taxis or private hire cars (PHC's) under the 1982 Act is an elective activity. Aberdeenshire Council, as the Licensing Authority as prescribed by the 1982 Act, has decided, in terms of Section 9 of the 1982 Act, to license taxis and PHC's. To obtain and hold a licence, a vehicle must satisfy certain technical specifications.

2.2 Section 10(2) of the 1982 Act outlines 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...".

2.3 This aligns with the key aims outlined in the 1982 Act, which state 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...".

2.4 A member of the public has contacted the Council and enquired as to whether a Tuk Tuk could be licensed as a taxi or PHC. As tri-wheeled vehicles do not

satisfy the current minimum specification threshold for a taxi or PHC, Members are being asked to firstly decide whether these types of vehicles are suitable for use as a taxi or PHC, when considering public safety.

- 2.5 If the Sub-Committee were to decide that, in principle, tri-wheeled vehicles are suitable to be licensed as taxis and PHC's within Aberdeenshire, as these are very specialised vehicles, Officers are likely to be required to take the following steps:
- Collate detailed information regarding the safety features of the tri-wheeled vehicles for their use as taxi and PHC vehicles (from an external expert, if necessary)
 - Compile suitable testing specifications for tri-wheeled vehicles as the current specifications do not extend to this type of vehicle.
 - Create new standard conditions for tri-wheeled vehicles as the current conditions do not extend to this type of vehicle.
 - Make sure the vehicle testing stations used by Aberdeenshire Council are equipped with both the appropriate facilities and expertise to allow for the testing of tri-wheeled vehicles.
- 2.6 Upon completion of the above steps, a supplementary report would be put before Members to fully consider the correspondence received with an aim of making a final decision on whether tri-wheeled vehicles are considered to be suitable in terms of type, size and design for use as taxi or PHC vehicles in terms of public safety.

Licensing Process Timeline

- 2.7 Part 4B Policy Development and Review of the Scheme of Governance will be followed as the basis for establishing the evidence required to enable the Sub-Committee to make an informed decision. A timeline will be established setting out the steps to be undertaken and how this will be reported back to the Committee.

3. Discussion

Vehicle Information and Specifications

- 3.1 At present, tri-wheeled vehicles are not currently licensed by Aberdeenshire Licensing Authority as a suitable vehicle for use as a taxi or PHC.
- 3.2 To provide insight to Members, a Tuk Tuk is an example of a three wheeled vehicle with a closed cabin area which is open at both sides. It is a motorised version of a traditional non-motorised cycle rickshaw style of vehicle. A photographic example of both a Tuk Tuk and a motorised tricycle can be found at **Appendix 1**. They are sometimes also known as pedicabs.
- 3.3 Aberdeenshire Council does not compile a list of specified vehicles which can be licensed as taxi's or PHC's. Vehicles must comply with the Council's minimum vehicle specification and pass an initial inspection in terms of an acceptable standard of safety and comfort, and thereafter pass either annual or biannual inspections. This specification is provided for your information at **Appendix 2** to this report.

- 3.4 A universal method of testing a vehicle's safety rating is through the European New Car Assessment Programme (NCAP). At present a Bajaj Re, the type of Tuk Tuk owned by the inquiring Tuk Tuk owner, does not have an NCAP safety rating, however, a Bajaj Qute has an NCAP safety rating of 1. The Qute model has doors fitted to it and four wheels, whilst the Re model, which the inquiring Tuk Tuk owner owns, does not.

The most comparable vehicle type which has been tested through the NCAP scheme is a 2+2 golf cart which has 4 wheels but has no sides and a canvas roof, similar to the Bajaj Re. This vehicle achieved a zero-star rating from NCAP.

The distinction to be drawn between the golf cart and the example style Tuk Tuk is that the former is usually driven through golf courses or quiet private roads whereas, the tri-wheeled vehicles we are considering will be driven on busy roads, some of which are B class within Aberdeenshire. This exposes the vehicle to high volumes of traffic whereby passengers are at a significantly greater risk of collision and/or injury.

Additional Information Provided by Applicant

- 3.5 The information provided by the Tuk Tuk owner gives Members an insight into the specifications of the vehicle. This information is intended to provide an oversight to inform Members of the basic features of a type of tri-wheeled vehicle. If Members were to approve this type of vehicle for use as a taxi or PHC for licensing, in principle, a further detailed specification would need to be gathered prior to making a final decision. This additional information forms **Appendix 3** to this report.

Initial Consultation

- 3.6 An initial, informal, consultation was carried out with a view to asking the Licensing Sub-Committee to approve or reject the request to introduce a licensing scheme for the licensing of these types of vehicles. The following parties were consulted by email on 1 June 2022 and the responses can be found in **Appendices 4 to 6** below.

3.6.1 Police Scotland:

Police Scotland indicated they are unsupportive of the proposal, primarily on the grounds of public safety. The reply indicates concerns around the safety of such vehicles. The Police have highlighted that even in lower speed collisions, with these vehicles having no doors or airbags, the likelihood of occupants being partially or fully ejected is high, which in turn increases the risk of injury and death. The full reply to the consultation can be found at **Appendix 4** of this report.

3.6.2 Aberdeenshire Council Fleet Services:

Fleets Services confirm they are unsupportive of this proposal as this category of vehicle does not meet the current testing requirements within the Council. The full reply to the consultation can be found at **Appendix 5** of this report.

3.6.3 Aberdeenshire Council Transportation Team:

The Transportation Team confirms they are unsupportive of this proposal due to safety concerns surrounding the use of Tuk Tuk's, specifically the lack of air bags and the stability of these vehicles going around sharp bends in the road especially whilst travelling around trunk or B roads which form the majority of Aberdeenshire Council's roads network. The full reply to the consultation can be found at **Appendix 6**.

Decision Making Route of Other Scottish Authorities

3.7 The Tuk Tuk owner who has made the inquiry listed other local authorities in Scotland who have licensed these vehicles. These are Aberdeen City Council and Argyll and Bute Council. There have been other authorities who have considered similar matters: Dumfries and Galloway Council, Edinburgh City Council, Angus Council and Highland Council. An explanatory paragraph for each local authority below summarises the rationale and reasoning behind their decision making.

3.7.1 Aberdeen City Council:

Licences are granted under 3 separate categories: taxis, private hire vehicles and special events private hire vehicles. In 2018, Members of the Aberdeen City Council Licensing Committee resolved to include Tuk Tuks as a category of vehicle which could be granted a special events private hire licence. At present, there is one Tuk Tuk licensed in Aberdeen City which was granted against an objection received by Police Scotland on public safety grounds.

Despite Aberdeen City Council having a special events private hire category, there is no differentiation within the legislation between different types of private hire vehicles, or the way in which they choose to operate. This decision was made on 21 May 2018.

A distinction to be drawn between Aberdeen City and Aberdeenshire is that if tri-wheeled vehicles were to be licensed in Aberdeenshire, there is a significant difference in the road network with the network in Aberdeenshire being comprised of B class countryside roads with vehicles travelling at much greater speeds than on the roads within Aberdeen City.

3.7.2 Argyll and Bute Council:

This local authority maintains a list of vehicles approved for use in licensable activity, with "trikes" being listed as a category, which would incorporate Tuk Tuk's.

The Licensing Committee decided to grant a private hire care operator licence to one applicant. The applicant was seeking to carry out tours of Islay in the Tuk Tuk. The report was heard at the meeting held on 19 June 2019. The list of vehicles approved for use in licensable activity can be found at **Appendix 7** to this report.

3.7.3 Dumfries and Galloway Council:

In September 2019, the Licensing Committee at Dumfries and Galloway Council considered, in principle, whether Tuk Tuk's should be licensed as taxis or PHCs. Members agreed with both Police Scotland and the Council's own Transportation Manager that these vehicles were unsuitable in terms of type, size or design to be used as taxi or PHC's. The reason being, the vehicle offered insufficient protection to passengers if an accident were to occur, nor was it suitable for the types of roads within the Dumfries and Galloway area.

The Committee made this decision on 20 September 2019.

3.7.4 Edinburgh City Council:

The applicant was seeking to licence an electric tricycle as a PHC to provide tours lasting between 1-1.5 hours in the Old and New Town areas of Edinburgh and would pick customers up within a 3-mile radius of the city centre. Upon presentation to the Taxi Examination Centre, it became apparent that the vehicle did not confirm to many of the current licensing conditions.

Police Scotland submitted an objection to this application.

The application was refused "in terms of Paragraph 5(3)(d) of Schedule 1 of the Civic Government (Scotland) Act 1982 being there is other good reason for refusing the application, as the vehicle did not comply with the Council's licensing conditions for Private Hire Car Vehicles." This decision was made on 29 May 2018.

3.7.5 Angus Council:

The report concerned a request received from a business owner who planned to carry out motorised tricycle tours within and outwith Angus to tourists.

The proposed vehicle did not meet the current requirements of Angus Council in respect of the standard conditions applicable to PHC vehicles. Moreover, the vehicle inspection checklist used to inspect vehicles would not be appropriate for inspecting this type of vehicle.

The Committee agreed to instruct officers to further investigate the use of these motorised tricycles as PHC vehicles and report back to the Committee at a later date as to their findings. This was decided at a meeting on 13 January 2022.

A supplementary report was then presented to the Committee on 9 June 2022.

The applicant did advise that all of the safety clothing, helmets, etc would be provided to each customer and risk assessments would be adhered to. The Committee agreed to adopt the standards conditions, adopt the vehicle specification checklist and delegate to the Director of Legal authority to appoint a suitable vehicle inspection.

The Committee decided to impose additional conditions on these types of licences on reflection of Police Scotland having concerns in relation to the area or sphere of operation of motorised tricycles as private hire vehicles.

3.7.6 Highland Council:

The Licensing Committee agreed that auto-rickshaws were not suitable to be licensed within the Highland Council boundary.

The applicant had been seeking to carry out guided tours of Wick.

Highland Council refused the application on the basis that, to be licensed as a taxi, vehicles had to have an engine of no less than 1575cc, be at least four feet wide and have four doors which could be opened from the inside of the vehicle. This type of vehicle did not meet these criteria.

Police Scotland, in response to their consultation, stated that officers had several concerns in relation to vehicles of this nature, in particular, the design in terms of their lack of stability and the roofs being made of canvas. There were also concerns surrounding the lap belts only and minimal lighting. There were also concerns surrounding the serious and potentially life changing injuries passengers could sustain if they were to fall out of one of these vehicles, as their top speed is in excess of 40 miles per hour.

This decision was made around 19 February 2020.

4 Council Priorities, Implications and Risk

- 4.1 There are no Council Priorities identified in respect of this matter as the Sub-Committee is considering the report as the Licensing Authority in a quasi-judicial role and must determine the report on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.2 There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Sub-Committee is considering the report as the Licensing Authority in a quasi-judicial role and must determine the report on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.3 The table below shows whether risks and implications apply if the recommendations are agreed.

Subject	Yes	No	N/A
Financial	X		
Staffing		X	
Equalities and Fairer Scotland Duty		X	
Children and Young Peoples' Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

- 4.4 Tri-wheeled vehicles are significantly different to any type of vehicle currently licensed by Aberdeenshire Council to be used as a taxi or PHC. Therefore, Officers do not have the expertise to create specifications and conditions tailored to suit the licensing of these types of vehicles. The Council would need to seek external expert advice prior to licensing these vehicles as the procedure is not available in house and the financial implications would be attached to a fee structure.
- 4.5 The Sub-Committee is considering the report as the licensing authority in a quasi-judicial role and must determine the report on its own merits in accordance with the legal tests set out in the relevant legislation. The Integrated Impact Assessment (IIA) screening process has been carried out in relation to this report being presented to this Sub-Committee. This screening process has not identified any requirement to undertake any further detailed assessment in respect of the report.
- 4.6 If the Sub-Committee were to decide, in principle, to licence tri-wheeled vehicles, the IIA would be looked into again at a later date before gaining Sub-Committee approval to proceed with the granting of these licences.

5 Scheme of Governance

- 5.1 The Monitoring Officer within Business Services has been consulted in the preparation of this report and any comments have been incorporated into this report.
- 5.2 The Business Services Committee is able to consider and take a decision on this item in terms of Section C – Business Services: 1 – Committee Functions: 1.1 (a) of the List of Committee Powers in part 2A of the Scheme of Governance which enables the Committee to decide on all policy issues and resources matters relating to the Civic Government (Scotland) Act 1982, matters with implications across Area boundaries where objections or observations are received. The Committee determined that the licensing function should be delegated to the Business Services Licensing Sub-Committee.

Ritchie Johnson Director of Business Services

Report prepared by Christy Young, Trainee Solicitor, Fiona. M. Stewart, Senior Solicitor and Jill Joss, Senior Solicitor (all Governance)

Date: 23rd August 2022

List of Appendices:

- Appendix 1 - Example of a Tuk Tuk vehicle
- Appendix 2 - Tuk Tuk Specifications
- Appendix 3 - Additional information from Tuk Tuk owner
- Appendix 4 - Police Scotland Consultation Response
- Appendix 5 - Aberdeenshire Council Fleet Services Consultation Response
- Appendix 6 - Aberdeenshire Council Passenger Transport Consultation Response
- Appendix 7 - Argyll and Bute List of Approved Vehicles for Licensing Purposes

Appendix 1 – Examples of Tri-wheeled vehicles

Example of a Tuk Tuk vehicle





Example of a Motorised Trike Vehicle



Appendix 2 - Tuk Tuk Specifications



20
Advanced
Features!

Introducing the all-new

Bajaj RE

with the revolutionary
Twin-Spark Engine.



Two Spark Plugs



Reinforced Chassis



Bigger Oil Filter



Improved Reverse Gear



Anti-Judder Clutch



Increased Leg Space



World's No.1 3-wheeler.
Nigeria's No.1 Tuk.Tuk.

Technical Specifications



Electricals

TPS (Throttle Position Sensor)	Mounted on carburetor
Battery Location	Near Driver with anti-theft lock/12V 32 Ah
Magneto	150 W

Performance

Gradeability	19%
Top Speed	65 km/h

Weights

GVW	678 Kgs
Payload	330 Kgs
Kerb Weight	348 Kgs



Dealer:
Bajaj Auto Limited
Akurdi, Pune 411 005, India.
www.globabajaj.com

Distributed by:

Notes: Values given above are nominal & for guidance only. 15% variation is allowed in order to production and measurement. * All dimensions are in millimeter. • Dimensions of components are applicable as per relevant IS/ISO standards. • Specifications are subject to change without notice.

Engine

Type	Twin Spark plug, 2 valve, 4-stroke engine with Aluminum block
Cubic Capacity	198.88 cc
Power	8.1 kW @ 5000 +/- 250 rpm
Torque	18.0 Nm @ 3500 +/- 250 rpm
Engine Cooling	Air Cooled + Oil Cooled
Clutch	Wet Multi plates type + Anti-Judder
Oil Strainer	Magnetic
Oil filter	Screw-on type bigger filter

Chassis & Body

Suspension - Rear	Independently sprung rear wheel by trailing arm with helical spring & hydraulic damper
Spare Wheel	Near Driver with anti-theft lock
Front Mudguard	Metallic
Bumper	Chassis mounted
Seat	Prototuded design
Fuel tank Capacity	Petrol, 8 liters & 1.5 liters reserve

Dimensions

Wheel Base	2000 mm
Overall Length	2635 mm
Overall Width	1300 mm
Overall Height	1710 mm
Wheel Track	1150 mm
Turning Circle Radius	2880 mm
Minimum Ground Clearance	200 mm

Appendix 3 - Additional information from Tuk Tuk owner

From: [REDACTED] <[REDACTED]>

Sent: 24 March 2022 14:20

To: [REDACTED] <[REDACTED]@aberdeenshire.gov.uk>

Subject: RE: Tuk Tuk query

Hi its a 2019 bajaj re 4 seats driver and 3 passenger 200 cc air cooled engine 4 speed with reverse. Top speed is 42 mph. If you need anymore info police Scotland might manage 2 help as Aberdeen city have have same model as mine liniced as a private hire. Thanks [REDACTED]

Appendix 4 - Police Scotland Consultation Response 2 June 2022

NAMED RECIPIENTS ONLY

Christy,

Just for a bit of context I am a qualified collision investigator and I have concerns around the safety of such vehicles. In my opinion, this model appears to be unsuitable to be used as a licensed taxi.

Even in lower speed collisions there is the possibility that a Bajaj RE will come to rest on its side. Having no doors or airbags increases the likelihood of the occupants being partially or fully ejected from the vehicle during a collision, which in turn increases the risk of injury and death.

Limiting their maximum speed as a condition may reduce this risk however it has no effect on other road users, who could be legally travelling at 30 to 40 mph prior to a collision.

I would be interested to know what the NCAP safety rating is. A quick google search showed that the Bajaj Qute, (different model but same manufacturer) received a 1 star rating and it has doors.

I recommend that Aberdeen City Council do not issue a taxi license for this model type.

Kind regards

Neil Grant
Sergeant A9888

Licensing Sergeant | Divisional Coordination Unit | Police Service of Scotland



Enlarged Text of above

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Neil Grant
Sergeant

Appendix 5 - Aberdeenshire Council Fleet Services Consultation Response 8 July 2022

DETAILS OF SPECIFICATION AND EXAMINATION OF VEHICLES

The size of the vehicle will be taken into account in determining its suitability. Passenger carrying capacity permitted in terms of a licence will be determined according to the dimensions of the passenger seating accommodation. The statutory regulations under the Vehicles (Excise) Act 1971 may be used as a guide.

In general terms, no vehicle will be licensed which is so constructed or adapted as to be incapable of carrying at least four passengers in reasonable comfort in addition to the driver. Rear seats would normally be a minimum of 45" across the back of the seat. These requirements will be relaxed in the case of electric vehicles which carry less than four passengers.

Vehicles should normally have an engine capacity in excess of 1300cc and a minimum of four doors. The requirement for a minimum capacity of 1300cc will be relaxed where the licensing authority is satisfied that the design of the engine is such that the power output is equivalent to, or greater than, that of a 1300cc engine. Two door cars or three door hatchbacks will not be permitted. Metropolitan-type taxicabs will be acceptable. In the case of electric vehicles the licensing authority must generally be satisfied that the power to weight ratio is sufficient enough to operate as a taxi carrying the full number of passengers for which it has seats fitted.

The Council does not have the in house expertise and facilities to test then, the Council would have to externally source a suitable testing station to undertake testing of Tuk Tuks

The Council may have to change its testing specifications to accommodate Tuk Tuks.

The vehicles lack of safety features is of concern, with no air bags, only lap belts in the rear, and absolutely no impact protection.

The vehicle does not meet the current testing requirements within the Council.

Appendix 6 – Aberdeenshire Council Passenger Transport Consultation Response

Hi Christy

Whilst I do see the novelty of using such vehicles, I have a few safety concerns surrounding the use of Tuk Tuks.

My understanding is that they are not fitted with a number of safety devices that cars are, including air bags, thus increasing the risk of injury to the driver and passengers in a collision. In particular, the lack of doors would make a side impact collision likely to cause injury or worse as well as making it easier for someone who is 'under the influence' to fall out.

In addition, I'm not sure how stable they would be going around a sharp turn or roundabout – may be prone to tipping given they are 3-wheeled vehicles. Their top speed is very limited (a good thing) but if they were travelling along a trunk road or B road outwith town limits, they could cause an obstruction to other traffic, cause frustration to drivers following them who then take chances when overtaking, potentially increasing the risk of collisions. Would they be used at specific times on specific routes?

I am aware that a number of Scottish Local Authorities have had similar concerns (my recall is that Highland and Dumfries & Galloway are two of them) so it may be worth contacting them.

Hope this helps.

Regards

Sean Jamieson
Principal Officer (Client Transport)

ENLARGED TEXT

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Sean Jamieson
Principal Officer (Client Transport)

Appendix 7 – Argyll and Bute List of Approved Vehicles for Licensing Purposes

- 17 Only those vehicles approved by the Licensing Authority shall be permitted for use as private hire cars by the Licensing Authority. These are:-
- (a) FX4, Metrocab or similar vehicles purpose built for use as private hire cars.
 - (b) 4 door saloon, 5 door hatchback or estate cars of a size acceptable to the Council. Without prejudice to the foregoing generality any such vehicle shall have a rear seat of at least 51 inches in width.
 - (c) “People Carriers” or multi purpose vehicles (MPV’s) which are, after inspection, considered suitable for their intended purpose.
 - (d) “Trikes”
 - (e) Such other vehicle(s) as may be approved by the Licensing Authority from time to time.

Where a hatchback or estate car is used, the rear parcel shelf shall be kept in place or a satisfactorily secured device shall be fitted to prevent luggage travelling from the luggage compartment into the passenger compartment in the event of a sudden stop or accident.