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THE PLETHORA OF PEDICABS

Pedicabs are plying for hire on the streets of London as a result of a lacuna in the law identified in *Oddy v Bug Bugs* 2003. This case also differentiated between plying and touting for hire which further reinforces the Home Office opinion of 1962 in reference to illegally plying for hire (see *Taxi Globe* no 717, page 2 PP15). "Only when hailed did the drivers indicate they were available for hire. At that moment it is possible to conclude that the driver was plying his pedicab for hire but not, in my view, that he was soliciting custom.... My attention has been drawn to cases on the meaning of plying for hire. It is apparent that the term "plying for hire" may include soliciting, but soliciting is not required before a carriage is plying for hire. It can be plying for hire merely to wait in the street, available to passengers. Later cases suggest that it is the exhibition of the vehicle for hire through the agency of the driver which is the essence of the offence of plying for hire, unlicensed, under section 7 Metropolitan Police Public Carriage Act 1869. I do not consider, in the light of these authorities, that the terms "plying for hire" and "soliciting" are co-terminous".

TfL's Law Commission response TPH 1080 states... "The Mayor of London is of the view that pedicabs should be banned TfL agrees that revised legislation should define all vehicles that ply for hire as taxis regardless of how fares are calculated... whether or not pedicabs should be licensed should properly be addressed by a clear definition of what should be licensed as either taxis or PHVs" They also list why pedicabs are unsuitable to be licensed as either a Taxi or PHV.

- Do not meet EC manufacturing and safety standards.
- Minimal protection for passengers.
- Slow moving vehicles that add to traffic congestion.
- As pedicabs are cycles they are allowed to use bus lanes which has a detrimental impact on traffic speeds and the flow of buses.
- There is insufficient kerb space in London to provide ranks for any vehicles other than taxis.

However this appears to be at odds with the Mayor's transport strategy Proposal 56. "The Mayor, through TfL, and working with the London boroughs and other stakeholders, will press for specific primary legislation to establish an effective legal framework for pedicabs, including specific licensing powers for the boroughs". It is also at odds with the thinking of TfL/PCO at the time that Mr Ellis was Head of the PCO 1995-2007, where he states in his response (TPH0384) "The PCO was fully prepared to license pedicabs and had prepared detailed proposals and appropriate Conditions of Fitness prior to my retirement.... I regard it as vital that pedicabs are either licensed or banned because of the dangers they present to the public."

EXISTING LAW

Under existing law the meaning of a Hackney Carriage within London is..."any such vehicle for the conveyance of passengers which plies for hire whether drawn or propelled by animal or mechanical power, and which is not a stage carriage or tramcar."



Putting the London Cab back on Point

The issue in defining a pedicab as a hackney carriage remains a problem because even if the term stage carriage is repealed from the relevant acts, a pedal cycle, which is what a pedicab is also deemed to be, is not a mechanically propelled vehicle (see *Lawrence v Howlett* 1952 and *Pedal Bicycles Regulations* 2003).

Mr Low of Westminster City Council stated in the Hansard minutes of the TfL No 2 bill regarding the clause on pedicabs which was successfully opposed by the RMT..... "We want them to benefit in other ways. One of the ways in which we intend to benefit those that comply is to issue them with a permit which would entitle them to use pedicab stopping places around the City of Westminster. We have got signs authorisation already from the Secretary of State for Transport for pedicab stopping facilities; a combination of a metal sign and markings. The intention is that we would press on and introduce those. The sign would say "No stopping except pedicabs" and the carriageway marking would be a box with the word "pedicabs" written on it. Initially we are going to introduce 30 in the West End; that would provide space for about 50 pedicabs and we will be looking for locations where other vehicles, because they are far wider, could not reasonably stop. We think there is some scope and potential to actually allow pedicabs at some locations where they are not going to cause serious traffic disruption. They are not going to be restricted in the period of stay; and the reason for that is to allow for the riders to take meal breaks and visit a public convenience and that sort of thing."

PRIMARY LEGISLATION

We listed reasons very similar to TfL's in our response as to why pedicabs and tuk tuks should not be operating on the highway with one important additional fundamental point.

If pedicabs are legitimised through specific primary legislation to ply for hire it will make a mockery of the hackney carriage licensing system in respect of both vehicle and driver standards. Not to mention a total undermining of the value of the KOL with reference to gaining this right.

In conclusion we feel that pedicabs are infringing our right to ply for hire and licensing them to do so will only create the opportunity for sectors of the private hire trade to demand this right along with ranks as they are already able to conform to the requirements regarding health & safety referred to above.

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