



Public Consultation

Licensing of Land Trains, Rickshaws, Pedicabs and Tuk-Tuks

(Consultation closes on Friday 10 September 2021 at 4.00 p.m..)

We are asking the following questions for the purpose of promoting discussion, but if there are any other matters you think the Licensing Committee should consider then please include these.

In these questions, we are just referring to:

(a) Land Trains, and

(b) Rickshaws

as there are currently no requests to license pedicabs and tuk-tuks, so these are here all referred to as "rickshaws", but if you have any views about pedicabs or tuk-tuks in particular then please tell us.

1. Where can these things happen?

The Council might decide that Land Trains, rickshaws etc.

- (a) can go everywhere
- (b) can go everywhere, except in specified Exclusion Zones
- (c) can go only in specified Permitted Zones
- (d) cannot go on pedestrian footways or footpaths.
- (e) cannot go on vehicle carriageways.

2. If there are to be Exclusion Zones or Permitted Zones, where should these be?

3. Should there be different Zones for Land Trains & rickshaws?

4. Should the Council set standards for mechanical safety for Land Trains & rickshaws - or should there be no standards at all?

If this was a Taxi or Private Hire Car carrying the public, there would be inspection standards approved by the Licensing Committee, and the vehicle would be regularly checked at the Council Garage in Kilwinning; a vehicle which carries the public would need good brakes and steering.

5. Who should check that vehicles meet these standards?

6. Should there be conditions preventing rickshaws from using vehicle carriageways?

Possibly it's not enough to say "bicycles can go on the road": it's one thing to look at a bicycle where the only load is the rider, and another thing to look at a rickshaw carrying one or two adults (and possibly their luggage). So the vehicle might be a lot heavier, more difficult to manoeuvre, and slower to stop than an ordinary bicycle.

7. Should rickshaws have to have seat-belts for passengers?

It would be the passenger's choice if they use them, but at least they'd be available.

8. Should rickshaws have crash helmets available to passengers?

It would be the passenger's choice if they use them, but at least they'd be available.

9. What should there be a minimum age of operators/employees be?

By law the minimum age must be 16, but should it be higher?

The kind of Licence which would be used here (if the Council agrees to allow land trains, rickshaws etc.) is a "Street Trader's Licence" under Civic Government (Scotland) Act 1982, Section 39. Despite the title, this Licence applies to selling goods, or providing services in a "public place", so it is not limited to "streets". A common example is a van selling fast-food or sweets. The operators of the van need a Licence, and the staff need 'employee' Licences.

No person who is not 'over school age' can be engaged in Street Trading - Children and Young Persons (Scotland) Act 1937, Sections 30(1) and 37(a)).

Considerations:

- (a) The 'employees' are responsible for the safety of the public - both their passengers and other road-users. Compare this situation with another Licence to carry the public: Taxis or Private Hire Cars. The minimum age is effectively of is 18, because the licensing legislation says they must first have held an ordinary DVLA Driving Licence for at least 12 months: 1982 Act, Section 13(3)).

(b) A child may not have the same perception of risk as an adult. What if the child takes a shortcut across a busy road, not appreciating that a laden rickshaw is not as agile as an ordinary bicycle? What competence and experience do children have to bring onto a footpath/footway a vehicle which is potentially a danger to other road-users?

(c) the age cannot be less than 16 because (as well as the Children and Young Persons (Scotland) Act 1937) a child under 16 has no legal capacity either to apply for a Licence or to undertake contractual obligations. The general rule is that transactions by children under 16 are null and void - Age of Legal Capacity (Scotland) Act 1991, Sections 1(1) and 2(5). The exception which allows children to buy toys and sweets (Section 2(1)) does not apply:

"A person under the age of 16 years shall have legal capacity to enter into a transaction of a kind commonly entered into by persons of his age and circumstances, ..."

Children do not commonly haul passengers on rickshaws or enter into contracts for the carriage of persons.

10. What insurance cover should a Land Train/Rickshaw have?

11. Should there be a limit on the number of passengers a rickshaw can carry?

12. Should there be a limit on the ages of passengers a rickshaw can carry?

e.g. - should there be a ban on carrying unaccompanied children under 16?

13. When someone asks the Council for a Licence for a Land Train or Rickshaw, should they tell the Council:

- what is the proposed route of the "Land Train"/Rickshaw ?
- where will it travel:
 - what Carriageways? (other vehicles may use the Road)
 - what Footways? (mixed pedestrian and vehicle use)
 - what Footpaths? (pedestrians only)
 - what Cycle Tracks? (pedal cycles)
- at what days and times will it operate ?
- where will the vehicle be kept when not in use ?
- how many people will it carry ?
- who will provide the vehicle ?
- who carries out mechanical services to the vehicle ?

- who is to drive the vehicle ? (each driver will need a ST Employee Licence as well as the Operator needing a ST Operator's Licence)
- what is the drivers' age, competence and experience ?

14. Should the Council ask about Insurance?

- is the vehicle insured for use on
 - Carriageways? (other vehicles may use the Road)
 - Footways? (mixed pedestrian and vehicle use)
 - Footpaths? (pedestrians only)
 - Cycle Tracks? (pedal cycles)
- what insurer provides the policy in each case ?
- what is the extent of cover in each case ?
- does this policy insure -
 - passengers
 - people not riding in the Land Train/Rickshaw
 - in each case, their property ?

15. If there has to be insurance, how much public liability cover is needed?