

REPORT: Regulatory Committee

DATE: 5 October 2016

REPORTING OFFICER: Strategic Director, Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Taxi Licensing Conditions

WARDS: Borough-wide

1. PURPOSE OF REPORT

To consider additions / amendments to the Hackney Carriage and Private Hire Vehicle Conditions as set out below.

2. RECOMMENDED: That the Committee considers the proposals.

3. INTRODUCTION AND BACKGROUND INFORMATION

- 3.1 During meetings of the Taxi Consultative Group various changes and additions were tabled to the Hackney Carriage and Private Hire Vehicle conditions as set out below. The group was asked to consult with the taxi trade they represent regarding changes and the results of the consultation are shown at Appendix A and Appendix B of this report. The potential changes to existing policy are summarised at section 4 of this report.
- 3.2 The Committee is responsible for determining the Council's policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire (see Terms of Reference of the Regulatory Committee part 17B).
- 3.3 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be

determined by a council's executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the Council's cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the court.

3.4 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.

3.5 In deciding whether or not to adopt or to recommend the adoption of a policy the following questions should be addressed:

3.5.1 Has proper consultation been undertaken?

3.5.2 Are the proposals necessary and proportionate?

3.5.3 In considering 3.5.2 what is it about the existing policy which has proved deficient or has failed to deal adequately with changes in circumstance?

4. POTENTIAL CHANGES

4.1 Consider the use of run-flat tyres for use as an alternative to the requirement of a licensed vehicle to carry a spare/space-saver wheel.

4.1.1 Currently, all licensed vehicles are required by condition to carry a spare wheel or a suitable space-saver wheel in order to complete a hiring should a puncture occur.

4.1.2 In addition to carrying a spare wheel or space-saver, vehicles must also comply with a minimum useable luggage space policy. A number of modern vehicles have no separate storage area for a spare wheel or space-saver and the carriage of this item may preclude the vehicle from being deemed as suitable as a licensed vehicle by this Authority.

4.1.3 The use of run-flat tyres would also allow for a journey to be completed in the event of a puncture.

4.1.4 Run-flat tyres can only be used when fitted to vehicles that are equipped with a tyre pressure monitoring system.

4.1.5 Should the Committee allow run-flat tyres to be used a greater choice of vehicles would be made available to the local trade and subsequently, their customers.

4.2 Consider amendment to the Spare Tyre / Space Saver Tyre condition to ensure suitable tools are also carried to enable them to be changed in the case of a puncture.

4.2.1 Private hire vehicle condition 3.4 and hackney carriage vehicle condition 3.5 currently state the following:

The vehicle must be equipped with a full spare tyre or a space saver tyre as a minimum requirement. Tyre sealants shall not be sufficient.

4.2.2 The current condition was introduced to ensure passengers are not prevented from completing their journey in a licensed vehicle due to a puncture. There is an implied assumption upon the introduction of this condition that a licensed vehicle will always carry the appropriate tools to change a full size or space save tyre. However, by not carrying such tools the vehicle licence holder is still meeting the requirements of their licence.

4.3 Consider amending the use of taximeters in private hire vehicles.

4.3.1 Hackney carriage fares are set by the Licensing Authority unless the journey ends outside the Borough boundary when a fee can be agreed in advance between the customer and the driver/proprietor.

4.3.2 Private hire charges are set by the private operator who provides the pre-booked work.

4.3.3 Historically within the Halton area all the (non-executive type) private hire operators chose to charge their customers by the exact same tariff as that set by the Council for the Hackney Carriage trade. They also chose the same method of calculating the fare by the fitting of taximeters. This meant that as far as the public were concerned there was no difference between private hire and hackney carriages in Halton in respect of the cost.

4.3.4 There are now 2 separate private hire operators within the Halton area that have chosen to charge a different tariff and to use a 'datahead' system (a digital device that receives information from the computer booking system at the licensed premise as well as a satellite navigation signal).

4.3.5 The main basic difference between a taximeter and a datahead is as follows:

- A taximeter calculates the distance travelled by counting the number of revolutions of the wheel attached to the same vehicle. Waiting time in heavy traffic/lights etc. are also factored in to the fare as the wheels do not revolve but the meter is still switched on.
- A datahead calculates the distance via information from the satellite navigation system. It can also receive various other information from the main computer like variations relating to the time of day, pre-agreed price, account fees

and any other fee related details that the operator wishes to take into consideration.

4.3.6 The present condition allows for private hire vehicles to have a taximeter fitted even when a datahead is used by the operator but they must be set to the tariff as stated by the operator. This raises a number of issues.

1. This is confusing for the customer to see a taximeter and an operator issued datahead.
2. They cannot be used where a customer has been given a set price when contacting the operator.
3. The operator can vary their prices as often as they wish which would mean that the taximeter cannot be used until it has been altered by the taximeter company and then resealed and tested by Halton Borough Council. This is not practical to enforce.
4. A driver could receive a job from the datahead but switch the taximeter on if the meter is set to a different tariff than what the operator is charging.

4.3.7 It is proposed to amend private hire condition 5 to only allow taximeters to be fitted in private hire vehicles where the operator has chosen to charge the same tariff as set by the Council for hackney carriages.

4.4 Consider a review of conditions for the use of operator door signs on licensed vehicles.

4.4.1 For various reasons there appears to have been a visible increase in the number of vehicles driving in and around the Halton area that are licensed by other Authorities. These are more noticeable due to the fact that the name of the operator is very clearly advertised on the side doors of the vehicles. Requests have been received from the trade in Halton to consider if this type of advertising can be used by vehicles licensed in this Borough.

4.4.2 Hackney carriage condition 13 sets out the current rules on signs and advertising:

“13.1 Purpose built Hackney Carriage Vehicles may be allowed to have “all-over” adverts subject to prior approval from the Council. (The reason for this is that their shape denotes them as taxis and adverts do not detract from this).

13.2 Non-purpose built Hackney Carriage Vehicles may be allowed to have adverts on side panels only subject to prior approval from the Council. (The reason for this is that, since vehicles must all be black, adverts must be restricted to spaces which do not detract from their overall appearance).

13.3 *The following shall be allowed on any vehicle without the need for specific consent of the Council: a one line display on the rear windscreen (top or bottom so as not to interfere with rear visibility), provided that letters within the advertisement shall not exceed two inches in height and provided that the display shall only contain a telephone number and the identity of the system.”*

4.4.3 With hackney carriages, operator door signs are permitted with prior approval from the Council. It is proposed that where a request is made for a sign to advertise the operator (private hire or otherwise) then conditions should:

- reflect a clear distinction of who the operator is
- differ from the operator door sign if private hire vehicles also work for the same operator
- provide clear instructions on where they can be stuck on the vehicle

4.4.4 Private hire condition 13 sets out the current rules on signs and advertising:

“No signs or advertisements shall be displayed on any Private Hire Vehicle except that:

- *a one line display on the rear windscreen (top or bottom so as not to interfere with rear visibility), provided that letters within the advertisement shall not exceed two inches in height and provided that the display shall only contain a telephone number and the identity of the system shall be permitted.”*

4.4.5 With private hire vehicles, operator door signs are not currently permitted and consideration must also be taken in respect of the Council issued door signs that are currently required to be fitted to both front doors.

4.4.6 It is proposed to introduce a voluntary option for the private hire operator to decide if they wish to advertise their business on the side of their vehicles. In order to do this it is recommended that a new condition is issued to private hire operators requiring them to provide written confirmation of opting in and opting out of the voluntary agreement.

4.4.7 Should a private hire operator choose to opt in to the door sign code of practice then it is recommended the following private hire vehicle conditions are considered:

- reflect a clear distinction of who the operator is
- differ from the operator door sign if hackney carriage vehicles also work for the same operator

- require the wording “IF NOT PRE-BOOKED - NOT INSURED” clearly displayed on the sign
- provide clear instructions on where they can be stuck on the vehicle
- Only to require the fitting of operator door signs where the private hire operator wishes them to be fitted to all vehicles on their system

4.5 **Consider amending the definitions of the types of vehicles licensed as private hire and hackney carriage vehicles**

4.5.1 In order to try and address a perceived issue with the low number of fully accessible wheelchair vehicles available to hire within the Halton area, the trade have asked for a review of the age and definition of a fully wheelchair accessible vehicle to assist vehicle licence-holders when they consider purchasing a new vehicle.

4.5.2 The review of age restrictions is referred to separately in section 4.6.

4.5.3 In order to consider amending the definition of a fully wheelchair accessible vehicle it is first necessary to consider amending the names and definitions of the other types of vehicle to simplify the policy and conditions of hackney carriage and private hire licensing and to make it easier to review in the future. **This will not change the actual conditions only the wording.**

4.5.4 At present both hackney and private hire conditions use the following same definitions:

“MPV” means a multi-purpose vehicle (that is, a vehicle in which the seats may be removed or reconfigured and fully wheelchair compliant);

“MSV” means a multi-seat vehicle (that is, a vehicle which is fitted with a number of fixed position seats for in excess of 5 passengers and not exceeding 8 passengers).

“Fully wheelchair accessible” means capable of carrying a wheelchair in a folded and stored condition with the wheelchair passenger seated in a standard seat or at the election of the wheelchair passenger capable of carrying the passenger while sitting in the wheelchair provided that vehicles with rear access for wheelchair passengers shall not be deemed to be fully wheelchair compatible.

4.5.5 It is recommended to remove all reference to the term MSV and MPV throughout both the hackney carriage and private hire vehicle conditions and to replace them with the following definitions of qualifying vehicles:

“Standard vehicle” means any saloon, hatchback, estate or multi-purpose vehicle that is not fully wheelchair accessible and meets the criteria required by Halton Borough Council.

“Fully wheelchair accessible” means any vehicle capable of carrying a wheelchair in a folded and stored condition with the wheelchair passenger seated in a standard seat or at the election of the wheelchair passenger capable of carrying the passenger while sitting in the wheelchair and meets the criteria required by Halton Borough Council.

4.5.6 It is proposed to remove all reference to a “purpose built hackney carriage” as well as hackney carriage condition 2.1.1 which defines a purpose built hackney carriage as “type approved by the Public Carriage Office (currently known as Transport for London) as this is deemed to be too restrictive. Transport for London place high importance on the need for all hackney carriages to have a small turning circle. This rule does exclude a number of vehicles that have been professionally produced for the trade and are licensed across the rest of the UK that are more economical on fuel, produce lower emissions, provide more comfort and are more cost-effective to buy and run.

4.5.7 Consider replacing the condition referred to in both hackney carriage and private hire vehicle conditions that states “be fully wheelchair accessible” with conditions that specify what minimum requirements constitute a fully wheelchair accessible vehicle

4.5.8 The proposed new requirements for a fully wheelchair accessible vehicle can be found in Appendix B.

4.6 **Consider reviewing the current age policy for private hire and hackney carriage vehicles**

4.6.1 Halton Borough Council has a policy regarding the maximum age a vehicle can be when first licensing it as well as how long it can continue to be licensed for. This was introduced in agreeance with the trade some years ago to ensure a certain standard is portrayed to the public.

4.6.2 Following a change in legislation last October, vehicles licensed by other Authorities now work within the Halton area. The trade have requested a review of the age policy as there is a belief that they are subject to unfair competition due to vehicles being licensed by other areas having no age restrictions and can therefore be purchased at a significantly lower cost.

4.6.3 At present the following age conditions apply in Halton:

Saloon, estate vehicles and MSVs must be no more than 5 years old when first licensed and may not have their licence renewed after reaching 8 years old.

MPV style vehicles must be no more than 9 years old when first licensed and may not have their licence renewed after reaching 12 years old.

Purpose built hackney carriages must be no more than 13 years old when first licensed and may not have their licence renewed after reaching 16 years old.

4.6.4 Various submissions have been received during the consultation and are as follows:

- Leave the age rules as they currently are
- Leave the age for first licensing a vehicle but increase its ability to be licensed by 2 extra years
- Leave the minimum age for Saloons, estate vehicles and MSVs but extend the maximum age by 2 years. Leave the minimum age for MPV style vehicles but extend the maximum age to 15 years. Reduce the age for first licensing purpose built hackney carriages to 9 years and allow them to remain licensed until 20 years old.
- Increase the age of first licensing Saloons, estate vehicles, MSVs and MPV style vehicles by 1 year and increase their ability to be licensed also by an extra year.
- Increase the age of first licensing Saloons, estate vehicles, MSVs and MPV style vehicles by 2 years and increase their ability to be licensed by the same period.
- Increase the age all fully wheelchair accessible vehicles can be licensed to the age of 16

Members of this Committee are able to choose from any of the above suggestions or replace the current policy with one of their own. **If Members decided to agree the recommendation from 4.5.5 there will only be 2 types of vehicles to consider an age policy for.**

5. ISSUES ARISING

5.1 It is not envisaged that any current licence-holder would be disadvantaged by the implementation of any of the recommendations made in this report.

6. Regulators' Code 2014

6.1 The Regulators' Code 2014 requires regulators (such as the Council) to take into account a number of factors when introducing new policies.

6.2 For example, paragraph 1.2 of the Code states: "When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for

compliant businesses and other regulated entities, for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.”

6.3 The Code also states that regulators should base their regulatory activities on risk. In the present case the balancing exercise is to weigh any negative consequences on the taxi trade against the positive consequences on the public who use the services of the trade.

6.4 It is taken as read that unnecessary burdens should never be imposed and that all actions need to be proportionate.

7. OPTIONS

7.1 The options available to the committee are to **recommend:**

- Agreement to some or all of the potential changes or
- Amendment to some or all of the potential changes or
- Rejection of the potential changes.

7.2 Should the Committee recommend a course of action other than outright rejection of any potential changes existing conditions will need to be altered. The Committee will therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters.

8. POLICY IMPLICATIONS

8.1 Any changes made would vary Conditions relating to applicants applying to hold Hackney Carriage & Private Hire Vehicles Licences issued by Halton Borough Council.

9. OTHER IMPLICATIONS

None.

10. IMPLICATIONS FOR THE COUNCILS PRIORITIES

10.1 **Children and Young People in Halton**

None

10.2 Employment Learning and Skills in Halton

There is some potential for this.

10.3 A Healthy Halton

N/A

10.4 A Safer Halton

There is some potential for this.

10.5 Halton's Urban Renewal

N/A

11. RISK ANALYSIS

N/A

12. EQUALITY AND DIVERSITY ISSUES

None envisaged.

13. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Taxi Consultative Group File	4 th Floor Municipal Building	Nick Wheeler/ Kay Cleary