

REPORT: Regulatory Committee

DATE: 4th July 2018

REPORTING OFFICER: Strategic Director Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Taxi Licensing Matter

WARDS: Borough-wide

1. PURPOSE OF REPORT

To consider additions/amendments to elements of Taxi Licensing Policy, Single Status Driver's, Hackney Carriage, Private Hire Vehicle and Private Hire Operator's conditions as set out below.

2. RECOMMENDED: That the Committee considers the proposals and make appropriate recommendations to the Executive Board.

3. INTRODUCTION AND BACKGROUND INFORMATION

3.1 During meetings of the Taxi Consultative Group various changes and additions were tabled to the Single Status Driver's, Hackney Carriage and Private Hire Vehicle, and Private Hire Operator's conditions as set out below. The group was asked to consult with the taxi trade they represent regarding the proposed changes. 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 amending the period of time required to notify the Licensing Section of a medical condition that may affect their ability to drive in accordance with the Council's current medical standards.

4.1.1 Currently, all licensed drivers are required by condition to notify the Licensing Section of certain medical conditions within 28 days.

4.1.2 This means that a licensed driver could continue to drive for up to 28 days before they notify the Licensing Section of a medical condition that may deem them not fit to continue to drive members of the public.

4.1.3 The current condition therefore appears to go against the Council's current policy which requires a driver to meet the DVLA Group 2 standard at all times.

4.2 Consider amendment to the current condition that requires the fold up seats in a vehicles' boot area to be removed.

4.2.1 Hackney carriage and private hire vehicle condition 2.2.1 currently states the following:

Fold up seats within the boot area of any vehicle must be permanently removed and the connecting points sealed.

4.2.2 The current condition was introduced to ensure passengers are not carried in these seats as they are either not suitable for full size adults and/or there is no direct access from these seats to a passenger door without moving the seats in front.

4.2.3 Due to changes in manufacturer's safety features, removing seats would also involve disconnecting safety features which produce warning messages on the driver's dashboard. This would then leave the vehicle unfit for use.

4.2.4 The proposed amendment would allow for these types of vehicles to be used again.

4.3 Consider a new condition requiring private hire operators to notify the licensing section of certain types of complaints/incidents.

4.3.1 At present, operators receive allegations of incidents and complaints where they are either dealt with internally or the complainant is advised to refer the matter to the Council or the Police.

4.3.2 The Licensing Section has become aware that a number of these matters do not get reported to them for various reasons. Sometimes the complainant chooses not to report the matter to either the Police or Council. Even if a matter is referred to the Police this does not mean that there is sufficient evidence to prove an offence beyond all reasonable doubt. In these circumstances there could be sufficient evidence that a licence-holder falls below the threshold (balance of probabilities) to continue to hold a licence but as the Police do not always refer the matter to the Council's Licensing Section, no further action can be taken.

4.3.3 The proposed new condition would place a duty on a private hire operator to notify the Licensing Section of serious complaints.

4.4 Consider amending the current condition for Private Hire vehicles to make a clearer distinction between them and Hackney Carriage vehicles.

4.4.1 Vehicles that are converted to be fully wheelchair accessible are usually designed to be used as either a Hackney Carriage or Private Hire vehicle (subject to each local authority's policy).

4.4.2 The designs in question refer to illuminated pods and signs displaying the word "Taxi".

4.4.3 Private hire condition 3.2 currently states:

*The vehicle **must not** be fitted with any **roof sign and mounting**.*

4.4.4 Private hire condition 3.3 currently states:

*The vehicle **must not** be fitted with any **"For Hire" sign**.*

4.4.5 It is proposed to make small additions to these 2 licensing conditions to ensure clarity as to their meaning. The proposed wording can be found in appendix A.

4.5 Consider amending a condition to remove the requirement for a Single Status Driver to adhere to a by-law about using a taximeter when driving a private hire vehicle.

4.5.1 Where a fee has not been agreed between the customer and the operator beforehand, the operator will provide a means for the driver to calculate the fare at the end of the journey.

4.5.2 The proposal is to remove the following line from Single Status Driver's licence condition 16:

5 - use of taximeter

4.5.3 The original requirement is historical but has now been superseded therefore is recommended for amendment.

4.6 Consider a new hackney carriage and private hire vehicle licence condition to remove the ability to licence an insurance write-off vehicle:

4.6.1 Prior to any vehicle being issued with a Private Hire or Hackney Carriage vehicle licence, they are inspected by the Council's vehicle examiners at the Lower House Lane depot to establish the vehicle's roadworthiness. Unlike cosmetic damage, structural damage cannot always be seen during

these inspections which could have an impact on the way the vehicle drives or acts in the unfortunate event of a collision.

4.6.2 If a vehicle is involved in an accident the insurance company will consider if the vehicle can be safely repaired. If it can be safely repaired but it is not financially viable to do the insurance company will “write-off” the vehicle by paying the owner an amount of money the car is believed to be worth and then notify the DVLA of this.

4.6.3 The DVLA will be notified that the vehicle is one of the following:

- Has structural damage but can be repaired (known as category S)
- Has non-structural damage but can be repaired (known as category N)

4.6.4 Category N and S vehicles can be purchased back from the insurance company and frequently sold on as used vehicles. It is not illegal to sell a category N or S vehicle as long as it is clearly advertised as such.

4.6.5 It is a risk when buying a category N or S vehicle as there is no way of fully knowing what actual damage the vehicle has sustained. In most circumstances these vehicles will sell below their normal value and usually attract a higher insurance premium.

4.6.6 The proposal does recommend continuing to licence a vehicle where it is allocated a category N status only where strict criteria are met. This will only be in circumstances where the full scale of cosmetic damage has been officially recorded, corrected and can be examined by the Council’s vehicle examiners.

4.7 Consider amending the advertising policy and condition for rear windscreens of licensed private hire and hackney carriage vehicles.

4.7.1 The trade have asked if they can promote their Private Hire Operators with a larger advertisement that what is currently allowed on a vehicle’s rear windscreen.

4.7.2 The current policy/condition for both Hackney Carriage and Private Hire Vehicles is as follows:

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.

4.7.3 It has been proposed that this policy/condition is amended to allow for an advertisement to cover the entire rear windscreen where prior approval has been obtained from the Licensing Section. Where approval has been given, the advertisement must be attached to the vehicle using "one way film" which will still allow the driver some visibility through the covered glass.

4.8 Full details of the seven sets of proposals outlined above are set out in Appendix A.

5. ISSUES ARISING

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 would 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 change elements of existing policy and vary Conditions relating to applicants applying to hold Single Status Driver's, Hackney Carriage & Private Hire, Vehicles and Private Hire Operator's 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**

N/A

10.3 **A Healthy Halton**

N/A

10.4 **A Safer Halton**

None

10.5 **Halton's Urban Renewal**

N/A

11. RISK ANALYSIS

None

12. EQUALITY AND DIVERSITY ISSUES

There are no equality or diversity issues related to a review

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

Document	Place of Inspection	Contact Officer
Taxi Consultative	Licensing Section	Kay Cleary Nick Wheeler