

REPORT TO: Executive Board

DATE: 16 January 2020

REPORTING OFFICER: Strategic Director, Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Policy changes relating to rear loading fully accessible Hackney Carriage and Private Hire Vehicles where the wheelchair user is secured in a forward facing position

WARDS: Boroughwide

1 PURPOSE OF REPORT

To receive a report from the Regulatory Committee recommending that the Executive Board adopt policy changes which relate to the current Hackney Carriage and Private Hire vehicle policy in respect of rear loading fully accessible vehicles where the wheelchair user is secured in a forward facing position and to deal with consequential matters.

2 RECOMMENDED: That

- 1) The policy changes as recommended by Regulatory Committee at item 1 of Minute Number REG 6 and as detailed in the Regulatory Committee Agenda dated 27 November 2019 be adopted as Council Policy; and**
- 2) The consequential matters set out in items 2, 3 and 4 of Minute Number REG 6 and as detailed in the Regulatory Committee Agenda dated 27 November 2019 be endorsed.**

3 SUPPORTING INFORMATION

- 3.1 Appendix 1 to this report contains a resolution of the Regulatory Committee made at its meeting held on 27 November 2019 (Includes Appendix A and B) Appendix 2 contains the agenda item which gave rise to the resolution and Appendix 3 Response from Unite Union.

3.2 The policy changes recommended by the Regulatory Committee were the culmination of a consultation exercise via the Taxi Consultative Group.

3.3 The proposals which the Regulatory Committee recommend for adoption are set out in appendix B of the Report dated 27 November 2019.

4 ISSUES FOR THE COUNCIL TO DETERMINE

4.1 The issues to consider are set out in Appendix 1, 2 and 3

5 POLICY IMPLICATIONS

5.1 The subject matter of this report is to adopt policy changes

6 OTHER IMPLICATIONS

6.1 There are no other implications

7 IMPLICATIONS FOR THE COUNCILS PRIORITIES

7.1 **Children and Young People in Halton**
N/A

7.2 **Employment Learning and Skills in Halton**
N/A

7.3 **A healthy Halton**
N/A

7.4 **A Safer Halton**
N/A

7.5 **Halton's Urban Renewal**
N/A

8 RISK ANALYSIS N/A

9 EQUALITY AND DIVERSITY ISSUES N/A

10 LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972

None.

REG 6

REAR LOADING HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The Committee considered the report together with representations made by the UNITE trade union which had been received after the agenda had been printed. The Committee expressed their thanks for the trouble taken by UNITE in providing detailed comments on the matters before the Committee. The proposals had also been considered by the Taxi Consultative Group. The Committee recognised that there were negative as well as positive aspects of introducing this policy change as well as arguments for and against applying the policy only to private hire vehicles. However, the interests of the wheelchair travelling public and the need to increase, if possible, the number of fully wheelchair accessible vehicles were the prime objectives.

Consequently it was unanimously recommended that the policy change should apply to both hackney carriage vehicles and private hire vehicles. The benefits applying to existing categories of fully wheelchair accessible vehicles would apply to rear loading fully wheelchair accessible vehicles where the wheelchair user is secured in a forward facing position only. For the avoidance of doubt rear loading vehicles where the wheelchair user is secured in a rear facing position would continue to be banned.

RESOLVED: That the Executive Board be recommended to:

1. Adopt the policy changes detailed in this report relating to rear loading fully wheelchair accessible vehicles where the wheelchair user is secured in a forward facing position in respect of hackney carriage vehicles and private hire vehicles;
2. Give the Licensing Manager delegated authority to relax where appropriate for a period of 18 months from the date of grant of the first licence under this amended policy the Minimum Usable Luggage Space Requirement in respect of rear loading fully wheelchair accessible vehicles;
3. Direct that the Licensing Manager report back to the Regulatory Committee on the impact of the amended policy as near as possible to the expiry 18 months from the date of grant of the first licence under this amended policy;
4. To give the Licensing Manager delegated authority to set out and publish the Council's various policies, terms, conditions and guidance on taxi and private hire matters as the Licensing Manager considers appropriate from time to time

APPENDIX 2

REPORT:	Regulatory Committee
DATE:	27 th November 2019
REPORTING OFFICER:	Strategic Director Enterprise, Community and Resources
PORTFOLIO:	Resources
SUBJECT:	Taxi Licensing Matter
WARDS:	Borough-wide

1. PURPOSE OF REPORT

To consider amending the current hackney carriage and private hire vehicle policy in respect of loading wheelchair users from the rear.

2. RECOMMENDED

That the Executive Board be recommended:

5. To approve the policy changes detailed in this report relating to fully wheelchair accessible rear loading vehicles in respect of hackney carriage vehicles and private hire vehicles.
6. To give the Licensing Manager delegated authority to relax where appropriate for a period of 18 months from the adoption of this policy change The Minimum Usable Luggage Space Requirement in respect of rear loading fully accessible vehicles.
7. To give the Licensing Manager delegated authority to set out and publish the Council's various policies, terms, conditions and guidance on taxi and private hire matters as the Licensing Manager considers appropriate from time to time

3. INTRODUCTION AND BACKGROUND INFORMATION

- 3.1 All vehicles licensed by this Authority are able to carry a “standard” wheelchair in a folded up state following the user transferring to a seat in the vehicle.
- 3.2 This report however refers to vehicles that are able to carry passengers while remaining in their wheelchair, known nationally as Wheelchair Accessible Vehicles or “WAV”. This Council has traditionally referred to this category of vehicles as “fully” wheelchair compatible since the whole of the fleet is “wheelchair compatible” in the sense that a folding wheelchair can be accommodated with the passenger using the normal seating. National legislation and government targets have moved in the direction of only recognising vehicles as wheelchair accessible if they are “fully” wheelchair accessible.
- 3.3 As of the date of producing this report Halton Borough Council has the following number of WAV’s:

Total	WAV	%
267 hackney carriage vehicles	55	20
109 private hire vehicles	16	14
376 licensed vehicles	71	18

- 3.4 There is no legal requirement for any specific amount of vehicles to be accessible to wheelchair users. The Equality Act 2010 was written with the intention to amend this, however the section relating to minimum numbers was never enacted.
- 3.5 Currently, the Council only approves vehicles for licensing as a WAV hackney carriage or WAV private hire vehicle that are permanently adapted/modified to enable a passenger using a standard wheelchair to enter, exit from the side of the vehicle.
- 3.6 Meetings have been held with representatives of the local trade (Taxi Consultative Group) when the issue of WAV’s has been discussed. It is widely accepted by trade representatives that there is a need for additional WAV’s in the Halton area in order to be able to meet the growing demand for vehicles that can carry customers who need to be carried while seated in their wheelchair.
- 3.7 By far the main reason provided by the trade for the reluctance to purchase a WAV under the current policy was the cost of purchase and the cost of maintaining this type of vehicle.

4. POTENTIAL CHANGES

- 4.1 Enquiries have been made by the Council's own Transportation Team as to this Authority possibly allowing vehicles to be licensed that can load wheelchair users from the rear of the vehicle. This would allow for a wider range of wheelchair users to be carried, more specifically those that are of a non-standard type to be carried i.e. heavier as well as those that can only be secured in a forward facing position.
- 4.2 In considering the implications of allowing rear fully loading wheelchair accessible vehicles, officers have identified both the advantages and disadvantages of licensing rear loading WAV's and have listed them at **Appendix A** of this report.
- 4.3 As can be seen from the points in **Appendix A**, all the disadvantages relate almost specifically to hackney carriages due to the fact that they are available for immediate hire from taxi ranks.
- 4.4 Private Hire vehicle drivers are able to assess where to park when attending a pick-up or drop-off point which would explain why most Local Authorities now licence rear loading WAV's as private hire vehicles.
- 4.5 An argument for allowing rear loading WAV's as hackney carriages in Halton was raised at the Taxi Consultative Group on 10th October 2019. This argument was that a large volume of work undertaken by hackney carriages in Halton is from unofficial "taxi ranks" that are located on private land i.e. Asda car park in both Widnes and Runcorn, Hough Green and Widnes railway stations where there is no kerb for a wheelchair user to negotiate.
- 4.6 There is a further issue to consider in terms of the Council's current vehicle policies. Some rear loading vehicles are too small to comply with the Council's Minimum Useable Luggage Space requirements. There may have to be a 'trade-off' between increasing the number of fully wheelchair accessible vehicles and a relaxation of other standards. It is hoped that this will not happen since vehicles that are too small ought not to be attractive to the trade – some of these might only be able to accommodate two passengers. The Committee is asked to recommend that the Licensing Manager be given discretion to relax the Minimum Useable Luggage Space requirement in respect of fully wheelchair accessible vehicles for a period of 18 months to 'test the market'.
- 4.7 At present the following nearby Licensing Authorities do license rear loading vehicles as hackney carriages:

- Cheshire West & Chester
- St Helens
- Cheshire East

4.8 Knowsley Council have advised that they may be reviewing their own policy on this matter shortly.

5. Policy Decision Making

5.1 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).

5.2 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.

5.3 Consequently, any decision of the Regulatory Committee relating to policy change will be by recommendation to the Executive Board.

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

5.4.1 Has proper consultation been undertaken?

5.4.2 Are the proposals necessary and proportionate?

5.4.3 In considering 5.4.2 what is it about any existing policy which has proved deficient or has failed to deal adequately with changes in circumstance?

5.4.4 Notwithstanding the above, the Committee is entitled to determine individual applications on their merits. This means that the Committee could determine the application and/or wait for a change in policy.

6. 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.

7. REGULATORS' CODE 2014

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

7.2 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;
- minimise 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."

7.3 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.

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

8. OPTIONS

8.1 The options available to the committee are to:

- Recommend the Executive Board to agree to amend the Council's current policy to allow rear loading wheelchair accessible vehicles to be licensed as private hire vehicles
- Recommend the Executive Board to agree to amend the Council's current policy to allow rear loading wheelchair accessible vehicles to be licensed as hackney carriage vehicles
- Reject either or both of the potential amendments

- 8.2 Should the Committee recommend a course of action other than outright rejection of the proposed changes then the existing policy pre-conditions will need to be re-drafted. The Committee would therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters. An illustration of which can be found at **Appendix B**.

9. POLICY IMPLICATIONS

- 9.1 These are set out in the report.

10. OTHER IMPLICATIONS

None

11. IMPLICATIONS FOR THE COUNCILS PRIORITIES

11.1 Children and Young People in Halton

None

11.2 Employment Learning and Skills in Halton

N/A

11.3 A Healthy Halton

N/A

11.4 A Safer Halton

None

11.5 Halton's Urban Renewal

N/A

12. RISK ANALYSIS

There are no associated risks which have been identified with this item.

13. EQUALITY AND DIVERSITY ISSUES

The proposals recommended in this document promote the Council's Primary Transport Strategy No. 13 - Provision for People with Disabilities.

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

Document

Hackney and private hire vehicle licensing pre-conditions

Place of Inspection

<https://www3.halton.gov.uk/Pages/business/Licences/Taxis.aspx>

Contact Officer

Kay Cleary

Appendix A

Advantages of Rear Loading Wheelchair Accessible Vehicles

- Many wheelchair users use rear loading vehicles in their personal lives (e.g. through the Motability scheme) and will be confident and comfortable using them and this may be their preference
- Easier to load/unload in some locations compared to side loading vehicles (e.g. private driveways and locations where there is no kerb)
- Easier for driver to load as:
 - a) some models can be fitted with an assistance winch
 - b) the angle at which the wheelchair user is loaded is smaller due to the floor in most of these vehicles usually being lower
- No need for driver to turn the wheelchair 90 degrees inside the vehicle which can be difficult for many drivers
- More suitable for some people using larger, heavier electric wheelchairs
- Provides disabled people with an additional transport option when booking (some wheelchair users find the side loading vehicles difficult to access)
- It is hoped (but not guaranteed) that the number of 'fully wheelchair accessible' vehicles in the fleet would be boosted
- Considerably cheaper to purchase from new as prices currently start around £19,000 as opposed to the side loading vehicles that start around from £30,000 to £46,000
- Petrol and hybrid options are available which may be less polluting than diesel variants
- Can carry passengers in a forward facing position which is a requirement for certain specialist wheelchairs. Note that existing 'fully wheelchair accessible' vehicles all carry wheelchairs anchored in a backward facing direction

Disadvantages

- Where there are no dropped kerbs it could be difficult or uncomfortable to move a wheelchair bound passenger off a kerb on to the road
- Loading in the road puts passengers and drivers at greater risk from other road users
- No additional space on most designated hackney carriage stands to accommodate rear loading vehicles (up to 3000mm space is needed for rear loading)
- As rear loading vehicles are cheaper than side loading vehicles, it could result in the entire fleet being rear loading
- In most cases these vehicles are smaller and carry fewer passengers than side loading vehicles
- In pursuing the goal of increasing the number of fully wheelchair accessible vehicles in the fleet, compromises may be needed in relaxing certain standards such as minimum usable luggage space

Appendix B

Condition modification if rear loading of wheelchairs to be permitted

Both current hackney carriage and private hire policies referring to the loading of wheelchair users can be found in their respective pre-conditions at 2.1.3(3) and read as follows:

- (3) A ramp for the loading of a wheelchair and occupant via the nearside passenger door must be carried in the vehicle at all times. The ramp must be of a design that is able to be effectively secured to the vehicle when being used.*

Should either, or both types of licensed vehicle policy be modified then the pre-conditions can be amended to incorporate the text in bold below.

- (3) A ramp for the loading of a wheelchair and occupant via the nearside passenger door **(or in the case of rear loading fully wheelchair accessible vehicles, via the rear door)** must be carried in the vehicle at all times. The ramp must be of a design that is able to be effectively secured to the vehicle when being used.*

APPENDIX 3

Unite the Union Response to the proposals to Amend Taxi Conditions in Halton (submitted via email on 12th November 2019)

1. To remove the current requirement to paint an approved trailer the same colour as the towing vehicle. We have no Objections

Reference - Agenda Item 5, page 17, paragraph 4.1

HBC Comments: Noted

2. To amend the current private hire vehicle condition to specify the location Halton Borough Council door signs are to be fitted on vehicles (para 4.2 of the report relates) We have No Objections

Reference - Agenda Item 5, page 18, paragraph 4.2

HBC Comments: Noted

3. Consider removing the driver condition requiring the display of the table of fares (para 4.3 of the report relates). We have concerns that a hackney driver will have no legal tariff on display to cover disputes with the travelling public on what can be legally charged. The 1847 Act states that a Hackney carriage must have a current table of fares inside so that it can ply for hire.

Reference - Agenda Item 5, page 18, paragraph 4.3

HBC Comments: This response misreads the proposed change. Unite the Union's concerns are not justified as clarified in Appendix A of Agenda Item 5 toward the bottom of page 24 and continued on to page 25

4. Consider creating a new condition requiring all licensed vehicles to only be fitted with tyres that are under 10 years old (para 4.4 of the report relates) We have no objections.

Reference - Agenda Item 5, page 18, paragraph 4.4

HBC Comments: Noted

5. Consider removing the condition requiring private hire and hackney carriage vehicle licence holders to hold insurance for their vehicles and to keep a copy in their vehicle (para 4.5 of the report relates) We don't have a issue with the insurance document not being carried in the vehicle.

Reference - Agenda Item 5, page 20, paragraph 4.5

HBC Comments: Noted

6. Consider removing the condition requiring holders of single status driver's licenses to keep a copy of their insurance in their vehicles (para 4.6 of the report relates). We have no objections to this proposal.

Reference - Agenda Item 5, page 20, paragraph 4.6

HBC Comments: Noted

7. Rear loading WAV – As a union we have a massive objection to this type of vehicle being used due to the following.

a. Public Safety -the driver would have to push the wheelchair user out into the road. In the current climate of Health and Safety, are you are telling a driver to push a disabled passenger into the public highway to be loaded into a WAV. In what way would this be safe for the passenger and driver?

b. Rank space. Rank space is at a premium and if the ranks are full how do they load a wheelchair. There are a variety of WAV's with side loading entrance which is perfectly safe for the Wheelchair user and the driver. Due to this why would there be a need to license a vehicle of this type.

c. If there was to be a rear end accident and the ramp could not be accessed, how would wheelchair user escape the vehicle?

Reference - Agenda Item 4, pages 6-12

HBC Comments: These are all valid points and echo the negative aspects of the proposal as set out in the agenda (Appendix A, pages 13 - 14). All of these points need to be balanced with the positive aspects of rear loading vehicles

