

REPORT: Executive Board
DATE: 3 September 2015
REPORTING OFFICER: Chief Executive
PORTFOLIO: Resources
SUBJECT: Taxi licensing matter
WARDS: Borough-wide

1. PURPOSE OF REPORT

To consider the recommendations of the Regulatory Committee made at its meeting on 17 June (Minute REG21) relating to proposed additions / amendments to the Single Status Drivers Conditions and the Hackney Carriage and Private Hire Vehicle Conditions as set out below.

The Regulatory Committee's recommendations are submitted to the Executive Board as a result of a Court of Appeal decision to the effect that any 'plan or strategy' relating to taxi matters would have to be determined by the Executive of a Council.

2. RECOMMENDED: That

- 1) the recommendations of the Regulatory Committee set out in Minute REG21 and the Regulatory Committee report dated 17 June be adopted as Council policy; and**
- 2) the Operational Director-Legal and Democratic Services be authorised to determine the detailed wording of any outstanding matters and all other consequential matters to ensure implementation of this resolution.**

3. INTRODUCTION AND BACKGROUND INFORMATION

- 3.1 At its meeting held on 17 June 2015 the Regulatory Committee made the following resolution:

REG21 TAXI LICENSING MATTER

The Committee was advised that during meetings of the Taxi Consultative Group various changes and additions were tabled to the Single Status Drivers conditions (and pre-conditions), and Hackney Carriage and Private Hire Vehicle conditions. The Taxi Consultative Group was requested to consult with the taxi trade regarding changes and the outcome of the consultation was outlined in the report. The potential changes were as follows:

- The introduction of an English/Maths test for all new Single Status Drivers;
- the use of electronic cigarettes by licensed drivers and passengers whilst in their licensed vehicles;
- the use of spare tyres, space saver tyres or sealants in licenced vehicles;
- changing the size of luggage space in licenced vehicles taking into consideration the area above the back seat of the vehicle; and
- removing the Council's policy on blackout/privacy glass.

RESOLVED: That the following matters be recommended to the Executive Board for adoption as Council policy:-

1. The proposals set out at Appendix B of the agenda except that (1) The proposal regarding maths tests be not proceeded with; (2) The details of level of competence in English which must be achieved be determined by the OD-LD;
2. Existing conditions relating to "privacy glass" (being condition 2.5 of the current Hackney Carriage Vehicle Conditions and 2.6 of the current Private Hire Vehicle Conditions) shall be deleted and the following condition substituted in each case:

Privacy Glass

Privacy glass shall be permitted subject to the following rules:

- The permitted degree of tinting of glass in front of the vehicle's "B-Pillar" shall be in accordance with national standards;
- The permitted degree of tinting of glass behind the vehicle's "B-Pillar" shall not exceed the vehicle manufacturer's specification for the vehicle in question.

- 3.2 The Regulatory Committee report and associated Appendices are attached to this report as Appendix 1.
- 3.3 The Regulatory Committee report sets out the background to the decision reached by the Regulatory Committee together with the reason for the need for that decision to be a recommendation to the Executive Board.

4. OPTIONS

- 4.1 The options available to the Executive Board are to:-

- Adopt some or all of the proposed policies or
- Amend some or all of the proposed policies or
- Reject the proposed policies.

5. POLICY IMPLICATIONS

- 5.1 Any changes made would vary Conditions relating to applicants applying to hold Single Status Driver Licences and Hackney Carriage & Private Hire Vehicles Licences issued by Halton Borough Council.

6. OTHER IMPLICATIONS

- 6.1 None

7. IMPLICATIONS FOR THE COUNCILS PRIORITIES

7.1 Children and Young People in Halton

None

7.2 Employment Learning and Skills in Halton

There is some potential for this.

7.3 A Healthy Halton

N/A

7.4 A Safer Halton

There is some potential for this.

7.5 Halton's Urban Renewal

N/A

8. RISK ANALYSIS

- 8.1 N/A

9. EQUALITY AND DIVERSITY ISSUES

- 9.1 There is some potential for this.

10. 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	John Tully/ Kay Cleary

APPENDIX 1

REPORT:	Regulatory Committee
DATE:	17 June 2015
REPORTING OFFICER:	Chief Executive
PORTFOLIO:	Resources
SUBJECT:	Taxi licensing matter
WARDS:	Borough-wide

1. PURPOSE OF REPORT

To consider additions / amendments to the Single Status Drivers Conditions and 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 Single Status Drivers conditions and 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 to this report. The potential changes to existing policy are summarised at section 4 of this report. It should be noted that paragraph 4.5 below has been added to this report via a separate route but the Taxi Consultative Group has also been informed of this.

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 The introduction of an English / Maths Test for all new Single Status Drivers.

4.1.1 Currently, all applicants who wish to hold a Single Status Drivers Licence must comply with certain mandatory requirements; these include a driving test conducted by the Driving Standards Agency, a Level 2 Medical as defined by The Driver and Vehicle Licensing Authority, and a Taxi Knowledge Test.

4.1.2 The Taxi Knowledge Test comprises questions relating to shortest routes within Halton, location of Borough boundaries, knowledge of SSD and vehicle Conditions and a small amount of legislation relating to taxi driving.

4.1.3 Recently, enquiries have been received from an increasing number of people who have a first language which is not English, and who have a certain difficulty in communicating.

4.1.4 Unlike many other authorities, Halton does not require new applicants to have a proven competency in English and/or simple arithmetic.

4.1.5 No evidence has been forthcoming that any qualification in maths (arithmetic) is required.

4.1.6 At the time of preparing this report the availability and cost of basic English courses is not known. Enquiries have been made of Riverside College and the Committee will be updated on any responses received.

4.2 Consider the use of electronic cigarettes by licensed drivers whilst in their licensed vehicles.

4.2.1 The use of e-cigarettes is not prohibited under the Health Act 2006. However, the Council has banned these devices on Council premises.

4.2.2 The Committee is asked to consider whether banning e-cigarettes would be in the interests of the travelling public.

4.3 Consider if a Spare Tyre, a Space Saver Tyre or sealant are required in a licensed vehicle.

4.3.1 Many newly manufactured vehicles do not have a spare or a space saver tyre in the vehicle: instead they contain a tube of sealant. If a puncture occurs the sealant is used to repair the puncture and then a new tyre must be purchased.

4.3.2 There could be an issue of space to carry the spare tyre / space saver tyre in the vehicles which currently have a sealant.

4.4 Consider changing the size of the luggage space in licenced vehicles taking into consideration the area above the back seat of the vehicle.

4.4.1 The current size of the luggage space in a licensed vehicle must be a minimum of 12.5 cubic feet. This does not take into consideration the fact that luggage may be loaded above the back seat which could cause problems to the passengers if the vehicle has to brake suddenly.

4.4.2 The Taxi Consultative Group were asked to consider if the luggage space of a licensed vehicle should be able to carry a minimum of two suitcases and a fold up wheelchair as a standard.

4.5 Consider removing the Council's policy on blackout/privacy glass.

4.5.1 Hackney carriages and private hire vehicles are subject to the following standard condition under the heading "Privacy glass": Privacy glass shall be permitted subject to the following rules:
Blackout glass shall be banned in Halton;
The permitted degree of tinting of glass in front of the vehicles' "B-Pillar" shall be in accordance with national standards;
The permitted degree of tinting of glass behind the vehicles' "B-Pillar" shall be in accordance with rules to be determined from time to time by the Council.

4.5.2 This condition was originally introduced some years ago following a request from Cheshire Constabulary. The police have been requested to comment on the continued use of this condition and have replied that in the absence of a Constabulary wide policy they withdraw their request for its imposition.

4.5.3 The Committee has removed this condition on individual application (such as at its meeting on 11th March 2015).

5 ISSUES ARISING

5.1 Grandfather rights would need to be considered if any changes were made to the luggage space and spare/space saver tyre/sealant.

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 GENERAL COMMENTS

7.1 The Council's Licensing Section has made enquiries at local colleges and has been advised that basic English/Maths courses are available and currently no fee is charged. (See Appendix B with respect to English).

7.2 The length of the course for each proposed applicant is dependent on the standard of English that the applicant has.

7.3 The course would need to be undertaken prior to the SSD application being submitted as currently all applications must be fully completed within 6 months from the date of first application.

8. OPTIONS

8.1 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.

8.2 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 with therefore be requested include within the resolution a delegation of the task of preparing detailed wording and other consequential matters.

9 POLICY IMPLICATIONS

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

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

There is some potential for this.

11.3 A Healthy Halton

N/A

11.4 A Safer Halton

There is some potential for this.

11.5 Halton's Urban Renewal

N/A

12 RISK ANALYSIS

N/A

13 EQUALITY AND DIVERSITY ISSUES

There is some potential for this.

14 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	John Tully/ Kay Cleary

APPENDIX A

Potential Changes to Single Status Drivers Licences conditions and Hackney Carriage and Private Hire Vehicle conditions

Proposal	Taxi Consultative Group Views
<p>Maths/ English test for all new Single Status Driver Applicants</p>	<p>Apec Strongly agree that all new drivers should have a test for basic Maths / English</p> <p>Halton Taxis Maths probably not necessary but spoken and written English essential</p> <p>Widnes Taxis Maths / English test required</p>
<p>Spare Tyre / Space Saver Tyre or Sealant</p>	<p>Apec Vehicles should have a spare wheel and not a sealant.</p> <p>Halton Taxis Proper spare wheel is essential</p> <p>Widnes Taxis Consensus is a spare wheel</p>
<p>Electronic Cigarettes</p>	<p>Apec In favour of electronic cigarettes</p> <p>Halton Taxis Nothing conclusive</p> <p>Widnes Taxis Not a great deal of interest – smokers were against banning this device</p>
<p>Licensed vehicle Luggage Space</p>	<p>Apec Agree that vehicles should be suitable for carrying two suitcases and a fold up wheelchair</p> <p>Halton Taxis It shouldn't matter what shape or size as long as it is a sensible size. It is not unreasonable that two suitcases and a fold up wheelchair should fit in</p> <p>Widnes Taxis Voted to stay at the current level of 12.5 cubic metres</p>

