

REPORT: Regulatory Committee

DATE: 27 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:

1. 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;
2. 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; and
3. 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 COUNCIL'S 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