

REPORT: Regulatory Committee

DATE: 9 October 2024

REPORTING OFFICER: Director – Legal and Democratic Services

PORTFOLIO: Resources

SUBJECT: Taxi Licensing Policy Amendments

WARDS: Borough-wide

1. PURPOSE OF REPORT

- 1.1. To consider additions and amendments to the Councils Taxi Licensing Policies.

2. RECOMMENDATION: that the Committee considers the proposals and makes appropriate recommendations to the Executive Board.

3. BACKGROUND

- 3.1. Recently the taxi trade has asked for several amendments to be made to the Taxi Licensing Policies. The request has been on the following points.
- Age of vehicles
 - Card Readers
 - Colour of purpose-built vehicles
 - Spare wheel/space saver
 - Fire Extinguishers
 - Age of electric vehicles
- 3.2. According to the Council's Constitution the Committee is responsible for determining policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire.
- 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 to recommend the adoption of a policy the following questions should be addressed:-

3.5.1 Has a proper consultation been undertaken where the duty arises?

3.5.2 Are the proposals necessary and proportionate?

4. POTENTIAL AMENDMENTS

Amendment 1 – Age of Vehicles

4.1 The Councils current policy on age limits of licensed vehicles are:

non fully wheelchair accessible vehicles

can be no more than 5 years old when first licensed and the maximum age is 10 years old.

Fully wheelchair accessible vehicles

Can be no more than 13 years old when first licensed and the maximum age limit is 16 years old.

4.2 Members will recall a temporary extension was granted for a period of two years with effect from the 25 February 2023, this is due to expire on the 25 February 2025, this temporary extension does not cover the whole of the trade it only covered qualifying vehicles that were coming up to the maximum age during the period.

4.3 The trade has asked for a review of the vehicle age policy due to the cost-of-living crisis and the price of replacing vehicles.

4.4 A review of the Liverpool City Region vehicle age policies has been undertaken, with Wirral Council being the most recent Authority to have adopted a new policy in June 2024, attached at **Appendix A** is the vehicle policy criteria.

- 4.5 Recent discussions within the Liverpool City Region have been taking place over the last few months with consideration being given that all the authorities within the region, are to adopt a standardised approach with a number of conditions and policies, the vehicle age policy is one of the policies that has recently been discussed. Research has found that most of the region already have similar criteria in place in relation to the age of vehicles.
- 4.6 In October 2015, the Deregulation Act 2015 made amendments to the Local Government (Miscellaneous Provisions) Act 1976 to allow a Private Hire Operator to subcontract a booking to another Private Hire Operator irrespective of where they are licensed. This practice is often referred to as “Cross Border Hiring”. The effect of this deregulation is that vehicles with different criteria can operate across many different authorities. It is only in recent years, that the amendment to the legislation has had an impact on the operation of the licensed vehicles in Halton. Licensing Officers are witnessing increasing concern from drivers licensed by Halton in respect of the number of vehicles that operate in Halton but are licensed by other licensing authorities who have different criteria for licensing vehicles, and this includes age of vehicles. It is reported that individuals are seeking to have their vehicles licensed by other authorities as they are finding it difficult to obtain vehicles that will comply with the current criteria for licensing vehicles in Halton Borough Council. Should an individual wish to have a licensed vehicle licensed by another licensing authority, in order to be able to drive that vehicle the individual must also obtain a driver's licence from that authority and work for an operator who has a licence in that authority. The consequences of this are that both the drivers and vehicles can operate in Halton under the conditions and criteria set by another licensing authority.

PROPOSAL

- 4.7 The temporary amendment – which permits an extension of the time limit for two years - is due to expire on the 25 February 2025 as the economic circumstances have not improved with the current cost of living crisis. The trade has requested that the whole of the vehicle age policy be reviewed.
- 4.8 In determining whether the policy should be reviewed, or an additional temporary amendment should be extended, the following considerations should be considered.
- Replacing a licensed vehicle on attaining current age limit could in the current time of austerity be punitive to the proprietor and place unreasonable financial and/or personal pressure on the licence holders.

- Removing the conditions in their entirety could lower the standards achieved in the Borough since age restrictions were introduced to, the detriment of the service to which the public are entitled.
- Any additional extension that may be granted would only benefit a small percentage of the trade whose vehicles reach the current maximum age in the next year or two. Even those licence holders who may benefit from any temporary extension to the current policy, may not necessarily take advantage of the any potential rule change and may choose to obtain a newer vehicle anyway.
- The committee will also need to have regard to the consultation outcomes, the most recent publication of the DfT Best Practice Guidance, as well as the criteria for licensing vehicles in neighbouring authorities in the City Region as well as other licensing authorities. If it is considered that there should be no change to the current policy, vehicle proprietors may seek to have their vehicles licensed in other authorities where the criteria do not restrict vehicles in terms of their age. Attached at **Appendix B** is the relevant sections from the guidance.
- The legislation gives licensing authorities a wide range of discretion over types of vehicles that they can licence as Hackney Carriage or Private Hire Vehicles. This is recognised in the DfT Best Practice Guidance which states:
“individual licensing authorities are still responsible for deciding their own policies and making decisions on individual licensing matters applying the relevant law and any other relevant considerations. This guidance is primarily intended to assist licensing authorities, but it is only guidance and does not intend to give a definitive statement of the law: any decisions made by an authority remain a matter for that authority”

CONSULTATION

- 4.9 The trade was consulted on the 10 June 2024 by email and the question was asked - should the age of vehicle be increased.
- 4.10 There were 111 replies to the consultation, which have provided the following information:
- 52 replies are in favour of the change
 - 52 replies are not in favour of the change
 - 7 replies made no comment
- 4.11 The findings with comments were collated and can be found at **Appendix C**.
- 4.12 The public have also been consulted via the Council website on the same question, no comments were received.

5. OPTIONS

- 5.1 The options available to the Committee are to recommend:
- Maintain current policy and readopt the 2-year extension time limit to 25 February 2027 or
 - Maintain current policy, but allow the extension time limit to expire on 25 February 2025 or
 - Adopt the same policy as other authorities in the Liverpool City Region or
 - Remove the minimum age requirement from 5 years to 7 for a standard vehicle and maximum from 10 to 12 years and keep the minimum age of 13 years for wheelchair accessible but increase the maximum to 18. With the same testing conditions as two a year
- 5.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.
- 5.3 In the event that policy is changed powers will need to be delegated to the Licensing Manager to settle wording of the policy.

6. POTENTIAL AMENDMENTS

Amendment 2 – Card Readers

- 6.1 There is currently no condition within the vehicle policy to have card readers in a licensed vehicle.
- 6.2 A request was made by one of the Private Hire Operators that this should be reviewed by the Licensing Department.

PROPOSAL

- 6.3 Should this proposal be reviewed in line with the Liverpool City Region, it may be noted that there are no other authorities within the city region that makes it mandatory to have a card reader in the vehicles.
- 6.4 Adding this to the vehicle licence conditions will add an additional cost for drivers licensed by Halton.

CONSULTATION

- 6.5 The trade was consulted on the 10 June 2024 by email and the following question was asked - should it be a condition that Hackney Carriage and Private Hire Vehicles have card readers in the vehicle?
- 6.6 There were 111 replies to the consultation, which have provided the following information:
- 26 replies are in favour of the change

- 80 replies are not in favour of the change
- 5 replies made no comment

6.7 The findings with comments where collated and can be found at **Appendix C**.

6.8 The public have also been consulted via the Councils website on the same question, no comments were received.

7. OPTIONS

7.1 The options available to the Committee are to recommend:

- Require a Card Reader for all new vehicles from and all vehicles currently licensed fromor
- Do not require a Card Reader

7.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.

7.3 In the event that policy is changed powers will need to be delegated to the Licensing Manager to settle wording of the policy.

8. POTENTIAL AMENDMENTS

Amendment 3 – Colour of Purpose-built vehicles (Wheelchair accessible)

8.1 The current vehicle conditions are as follows

Hackney Carriage

Be painted black except where the vehicle is a London style vehicle where it can be an be any solid colour

Private Hire

Painted any colour other than black

8.2 A request was made by the trade to remove the colour on purpose-built vehicles (Fully Wheelchair Accessible Vehicles) due to the cost of replacing the vehicles. Comments have been made that the cost of purchasing a black vehicle is a lot more expensive than purchasing one in any other colour.

8.3 The DfT guidance states on colour of vehicles
Licensing authorities should not impose a livery requirement on private hire vehicles. The more distinctive a private hire vehicle is made to appear, the greater the chance that this might be confused with a taxi.

To assist the differentiation further, licensing authorities which require taxis to be a particular colour should prevent private hire vehicles from being that same colour, unless they are easily identifiable i.e. they are purpose-built vehicles as is the case in many of our cities.

- 8.4 Residents of Halton are fully aware of the colour of licensed vehicles in Halton and if this was to be changed it could lead to confusion with the public.
- 8.5 In October 2015, the Deregulation Act 2015 made amendments to the Local Government (Miscellaneous Provisions) Act 1976 to allow a Private Hire Operator to subcontract a booking to another Private Hire Operator irrespective of where they are licensed. This practice is often referred to as “Cross Border Hiring”. The effect of this deregulation is that vehicles with different criteria can operate across many different authorities. It is only in recent years, that the amendment to the legislation has had an impact on the operation of the licensed vehicles in Halton. Licensing Officers are witnessing increasing concern from drivers licensed by Halton in respect of the number of vehicles that operate in Halton but are licensed by other licensing authorities who have different criteria for licensing vehicles, and this includes colour of vehicles. It is reported that individuals are seeking to have their vehicles licensed by other authorities as they are finding it difficult to obtain vehicles that will comply with the current criteria for licensing vehicles in Halton Borough Council. Should an individual wish to have a licensed vehicle licensed by another licensing authority, in order to be able to drive that vehicle the individual must also obtain a driver's licence from that authority and work for an operator who has a licence in that authority. The consequences of this are that both the drivers and vehicles can operate in Halton under the conditions and criteria set by another licensing authority.

CONSULTATION

- 8.6 The trade was consulted on the 10 June 2024 by email and the following question was asked - should the colour of purpose-built vehicles be changed?.
- 8.7 There were 111 replies to the consultation, which have provided the following information:
- 23 replies are in favour of the change
 - 27 replies are not in favour of the change
 - 61 replies made no comment
- 8.9 The findings with comments were collated and can be found at **Appendix C.**

8.10 The public have also been consulted via the Councils website on the same question, no comments were received.

9. OPTIONS

9.1 The options available to the Committee are to recommend:

- Maintain current policy or
- Change policy in specified respects.

9.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.

9.3 In the event that policy is changed powers will need to be delegated to the Licensing Manager to settle wording of the policy.

10. POTENTIAL AMENDMENTS

Amendment 4 – Spare Wheel/Space Saver

10.1 The current vehicle conditions are as follows

When driving a licensed Hackney Carriage or Private Hire Vehicle equipped with a space saver tyre the holder must be aware of and adhere to the VOSA requirements for the use of space saver tyres.

10.2 A request was made by the trade to remove the conditions for a spare wheel/space saver. The request was due to when drivers are purchasing new vehicles, manufacturers do not provide a spare wheel or space saver they now only provide the manufacturer tyre kit (tyre foam).

10.3 Officers have reviewed the conditions within neighbouring authorities, and it is noted some authorities do allow tyre sealant as part of the vehicle condition.

10.4 Comments have been received from the Councils Lowerhouse Lane Depot that they would have concerns regarding how they would continue their journey, and this could be an issue regarding passenger safety.

CONSULTATION

10.5 The trade was consulted on the 10 June 2024 by email and the following question was asked – should the condition for space saver/spare wheel be removed

10.6 There were 111 replies to the consultation, which have provided the following information:

- 78 replies are in favour of the change
- 18 replies are not in favour of the change

- 15 replies made no comment

10.7 The findings with comments were collated and can be found at **Appendix C**.

10.8 The public have also been consulted via the Councils website on the same question, no comments were received.

11. OPTIONS

11.1 The options available to the Committee are to recommend:

- Keep the requirement for a space saver/spare wheel in the vehicle as per current policy or
- Remove the current policy requirement for a space saver/spare wheel in the vehicle (with the implications that the manufacturers specification applies).

11.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.

11.3 Should the Committee recommend any of the changes to the Policy then they 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 to the Licensing Managers.

12. POTENTIAL AMENDMENTS

Amendment 5 – Fire Extinguishers

12.1 The current vehicle conditions are as follows

A fire extinguisher shall be maintained within the vehicle in a position approved by the Council. The extinguisher shall comply with BSEN3 1996, bear a K mark and licence number and have a gauge. The extinguisher shall be subject to annual test by a qualified tester and the test certificate shall be produced to the Council when the vehicle tested by the Council.

The fire extinguisher shall be permanently marked with the vehicle registration number and/or plate number.

12.2 A request was made to remove this condition due to not being required any longer, as it was not felt safe for a driver to return to a vehicle if it was on fire.

- 12.3 Officers have reviewed the conditions within neighbouring authorities, who do not have this condition as part of their policy.
- 12.4 Officers have contacted Cheshire Fire regarding this condition, and the replied received was that they could make no comment on this condition.
- 12.5 Comments have been received from the Councils Lowerhouse Lane Depot that fire extinguishers are a fire safety support, and all Halton Borough Councils fleet vehicles carry a fire extinguisher.

CONSULTATION

- 12.6 The trade was consulted on the 10 June 2024 by email and the following question was asked – should the condition for fire extinguishers be removed

There were 111 replies to the consultation, which have provided the following information:

- 30 replies are in favour of the change
- 21 replies are not in favour of the change
- 60 replies made no comment

- 12.7 The findings with comments were collated and can be found at **Appendix C**.
- 12.8 The public have also been consulted via the Councils website on the same question, no comments were received.

13. OPTIONS

- 13.1 The options available to the Committee are to recommend:
- Keep the requirement for a fire extinguisher in the vehicle as per current policy or
 - Remove the current policy requirement for a fire extinguisher in the vehicle
- 13.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.
- 13.3 In the event that policy is changed powers will need to be delegated to the Licensing Manager to settle wording of the policy.

14. POTENTIAL AMENDMENTS

Amendment 6 – age of electric vehicles

- 14.1 The current vehicle conditions regarding Electric Vehicles are the same as the current age restrictions as set out in paragraph 4.1 of this report.

- 14.2 A request was made by the trade that the age of Electric Vehicles should be allowed to be licensed for a longer period than the current vehicle age conditions due to the financial cost of purchasing a new vehicle.
- 14.3 Officers have reviewed the conditions within neighbouring authorities, and they do not have a age policy specifically for Electric Vehicles.

CONSULTATION

- 14.6 The trade was consulted on the by email and the following question was asked - should the age of Electric Vehicles be amended.
- 14.7 There were 111 replies to the consultation, which have provided the following information:
- 30 replies are in favour of the change
 - 8 replies are not in favour of the change
 - 73 replies made no comment
- 14.8 The findings with comments where collated and can be found at **Appendix C.**
- 4.9 The public have also been consulted via the Councils website on the same question, no comments were received.

15. OPTIONS

- 15.1 The options available to the Committee are to recommend:
- Maintain current policy with no difference between licensing convectional and electric vehicles or
 - Electric vehicles to have a different age limit as specified.
- 15.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.
- 15.3 In the event that policy is changed powers will need to be delegated to the Licensing Manager to settle wording of the policy.

16. REGULATORS' CODE 2014

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

16.2 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.”

16.3 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.

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

17. POLICY IMPLICATIONS

17.1 Any changes made to in relation to the above sections of this report would impact upon existing policies and possibly standards of Hackney Carriage and Private Hire Vehicles Licensed by Halton Borough Council.

17.2 Any changes made would change elements of existing policy and vary Conditions relating to applicants applying to hold Single Status Driver’s and Private Hire Operator’s Licences issued by Halton Borough Council.

18. OTHER IMPLICATIONS

There are no other implications arising out of this report.

19. IMPLICATIONS FOR THE COUNCIL’S PRIORITIES

19.1. Improving Health, Promoting Wellbeing and Supporting Greater Independence

None

19.2. Building a Strong, Sustainable Local Economy

None

19.3. Supporting Children, Young People and Families

None

19.4. Tackling Inequality and Helping Those Who Are Most In Need

None

19.5. Working Towards a Greener Future

None

19.6. Valuing and Appreciating Halton and Our Community

None

20 RISK ANALYSIS

None identified.

21 EQUALITY AND DIVERSITY ISSUES

There are no equality and diversity issues to highlight.

22 CLIMATE CHANGE IMPLICATIONS

There are no climate change implications since the decision will have no effect on the environment.

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

Document	Place of Inspection	Contact Officer
Taxi Consultative Group Agenda	Licensing Section	Kim Hesketh
Current licence conditions/policies	Licensing Section	Kim Hesketh
Taxi consultation file	Licensing Section	Kim Hesketh