

WELWYN HATFIELD BOROUGH COUNCIL
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE: 26 MARCH 2018
REPORT OF THE EXECUTIVE DIRECTOR PUBLIC PROTECTION, PLANNING AND
GOVERNANCE

REVIEW OF THE HACKNEY CARRIAGE VEHICLE LICENCE TERMS AND CONDITIONS

1.0 Executive Summary

- 1.1 Welwyn Hatfield Borough Council licence both Hackney Carriages and Private Hire Vehicles and as such the authority may also attach to the grant of a licence of a hackney carriage such conditions as the district council may consider reasonably necessary.
- 1.3 The current vehicle conditions for Hackney Carriage and Private Hire vehicles were adopted in November 2009. Conditions for private hire vehicles remain largely suitable, however, consideration must now be given as to what type of vehicle the Council wishes to continue to licence as a Hackney Carriage.
- 1.2 Hackney carriages provide a valuable transport service for a many people especially though who have a disability. Whilst not all passengers who have a disability require a wheelchair, some will and unfortunately there are currently no wheelchair accessible Hackney Carriage vehicles licensed by Welwyn Hatfield Borough Council. Therefore, it impossible for a wheelchair user to undertake a journey from any taxi rank or any street within the Borough without pre-booking a vehicle.
- 1.4 The proposal set out in this report recommend a review of the licence conditions in respect of the vehicles suitability in regard to The Equality Act 2010. These are detailed in the legal implications section contained within this report.
- 1.5 If the committee agree to review the licence conditions in respect of Wheelchair accessible vehicles then a thorough consultation process will need to be carried out.

2.0 Recommendation(s)

- 2.1 For the committee to consider the introduction of a condition to the licence of Hackney carriage vehicles, which are licensed by Welwyn Hatfield Borough Council in respect of Wheelchair Accessible vehicles.
- 2.2 If in agreement with 2.1, for the committee to agree that a consultation process Is undertaken in respect of the introduction of wheelchair accessible vehicles.

2.3 The results of the consultation process will be brought back to a future meeting of this committee.

3.0 Explanation

3.1 In 2017, 58% of all taxis in England were wheelchair accessible and has remained the same since 2015. In comparison 2.2% of PHVs were wheelchair accessible in 2017, similar to the proportion in 2015.

3.2 In England, outside of London, metropolitan areas had 83% wheelchair accessible taxis. In other urban areas 36% of taxis were wheelchair accessible and in rural areas 15% of taxis were wheelchair accessible. 183 authorities (62%) required wheelchair accessible vehicle in all or part of their taxi fleet.

3.3 Hackney Carriages offer a door-to-door service, in reasonable comfort personal service on a one-to-one basis from the driver. This has long been recognised both within local authorities and the trade itself. However at present the needs of wheelchair users are not being met voluntarily by the taxi trade, in particular Hackney Carriages. There are currently no WAV's available for hire from a rank or street in Welwyn Hatfield

3.5 Vehicles for use as hackney carriages which have been specially adapted or designed to carry passengers who wish to remain in a wheelchair for the journey have been available for a number of years. Originally these were usually 'London-style' vehicles, which since the late 1980s have been built to accommodate one wheelchair in the passenger compartment, but in recent years, a number of other vehicles have become available. These are sometimes referred to as 'alternative taxis' ('ATs', and are based upon vans or Multi-Purpose Vehicles ('MPVs'). In the case of the purpose built hackney carriages, access is gained via ramps from the near-side of the vehicle and the passenger travels in their wheelchair facing backwards and secured by means of special seat-belts, and the ramps are carried in the boot when not being used. In most of the ATs, access is via the rear of the vehicle, either via ramps or mechanical lifts. The direction of travel of the wheelchair bound passengers varies, depending on the vehicle in question.

3.6 Both approaches provide a good method of transport for wheelchair-using disabled persons. The ATs are considerably cheaper than the purpose built hackney carriages, but in many cases, local authorities will not licence ATs.

3.7 In addition, for non-purpose built vehicles (i.e. ordinary saloon cars in areas where there are no 'mandatory orders', swivel seats are available from a number of manufacturers. These replace the front passenger seat and actually swing either round, or round and out, to make it easier for people to get in. For the non-wheelchair user, these can be extremely satisfactory, but, as always, this is dependent upon the nature of the disability the person has.

3.8 It was the availability of the London-style cabs, which were actually purpose built to carry wheelchairs, which led Manchester City Council, in the mid-1980s, to consider the service of transport for disabled people. Arguments have raged over the worth of such an approach: primarily over the question of how much use is actually made of these vehicles by people using wheelchairs and whether that use is justified in

relation to the costs involved. As all new purpose-built vehicles are built to carry wheelchairs, and as the number of older vehicles that would need converting to be able to be granted a licence in such circumstances reduces, this argument carries less weight. In addition, reports from disabled individuals and groups emphasised the reassurance that people who use wheelchairs feel in any town or city where all the hackney carriages are wheelchair accessible. They know that they are always able to get home by making their way to a hackney carriage stand and will be able to get the first hackney carriage in the rank rather than having either to wait on the off-chance that an accessible vehicle appears or to phone and make booking arrangements.

3.9 The Disability Discrimination Act 1995 (DDA 1995) amended by the Disability Discrimination Act 2005 (DDA 2005) extended the provisions of DDA 1995 to the provision of transport providers. This has now been repealed and replaced by the Equality Act 2010.

3.10 During the lifespan of the DDA, the government made various announcements about the introduction of WAV provisions but nothing has really happened. The current position can be found in the revised DfT **Best Practice Guide** which states the following:

Accessibility

- *Local licensing authorities will want to consider how accessible the vehicles they license as taxis are for disabled people (which includes – but is not limited to – people who need to travel in a wheelchair).*
- *Licensing authorities will know that the Department has for some years now been working on proposals which would substantially improve taxi provision for people with disabilities. The work is continuing and an announcement will be made in due course. In the meantime licensing authorities are encouraged to introduce taxi accessibility policies for their areas. The Department's letter to the local licensing authorities of 9 September 2002, the relevant part of which was repeated in the letter of 16 June 2004, gave more detailed guidance.*
- *Different accessibility considerations apply as between taxis and PHVs. Taxis can be hired on the spot – in the street or at a rank – by the customer dealing directly with a driver; but PHVs can only be booked through an operator. It is important that a disabled person should be able to hire a taxi on the spot with minimum delay or inconvenience, and having accessible taxis available helps make that possible. For PHVs, it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet”.*

3.11 Whilst there is no current national requirement for WAVs, the government are promoting local requirements to provide wheelchair accessible vehicles. Several years after the passing of the legislation which was designed to make hackney carriages wheelchair accessible, there appears to have been no improvement on this provision as a result of national legislation and this remains a

significant failure to make transport available nationally for wheelchair-bound members of the population.

- 3.12 In summary, it is widely accepted that hackney carriages provide an extremely useful and usable form of transport for disabled persons. However, until the remaining legal provisions come into force for every district council, the provision of a genuinely useful service across the whole of England and Wales for persons with varying types of disability will not occur.

Implications

4.0 Legal Implication(s)

- 4.1 The council is responsible for licensing hackney carriages and private hire vehicles, drivers and operators and can attach certain conditions to some of these licences.
- 4.2 The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination, including disability discrimination. This Act includes many of the taxi and private hire vehicle provisions which were in the Disability Discrimination Act 1995. Sections 160 to 173 of the Equality Act 2010 relate specifically to taxis and private hire vehicles.

5. Financial Implication(s)

- 5.1 If a policy of wheelchair accessible vehicles is introduced the council may incur costs as a result of any legal challenge. Based on previous challenges in respect of the introduction of conditions a challenge may be extremely likely and costs of such a challenge potentially high.
- 5.2 There will be a high financial implication for licensed hackney carriage drivers if the introduction of Wheelchair accessible vehicles is agreed.
- 5.3 If the scheme is not introduced then financial implications may result from challenges from wheelchair users.

6.0. Risk Management Implications

- 6.1 The risks related to this report are as follows:
- 6.2 Failure to introduce a condition in respect of Wheel chair accessible vehicles may result of challenges to the council in respect of discrimination against wheelchair users. This challenge may be from any interested parties or individual i.e. charities or support groups. Potentially resulting in a reputational risk, risk of legal action against the Council. If successfully challenged this could result in heavy financial costs awarded against the Council.
- 6.3 However, it is also important to note that the introduction of the proposals may result in challenges from the taxi trade and their associated Trade Unions. The taxi trade may feel aggrieved by these conditions, especially in respect of the associated financial costs to upgrade their vehicles.
- 6.4 Challenges may also be made in respect of the consultation process, if it deemed to be not carried out correctly.

- 6.5 As always, it is difficult to look into the future but as these provisions do not apply to private hire vehicles and as in great many rural areas hackney carriages are largely used effectively as private hire vehicles, apart from some late-night work at pub and club closing times, it may well be that proprietors feel that the costs involved in either adapting their existing hackney carriage or purchasing a new vehicle which would comply with the requirements is too great. They will simply cancel their hackney carriage proprietor's licence and seek a private hire vehicle licence for the same vehicle. This, of course, only applies where the vehicle is of a saloon or people-carrier type and not a London-style cab.
- 6.6 It is difficult to see what arguments can be used in predominately urban areas to suggest that disabled accessible hackney carriages are not required. Such arguments may carry more weight in areas which are largely rural where the use of hackney carriages is predominately on a pre-booked basis (i.e. acting effectively as private hire vehicles). In those situations, it may possible to argue that a requirement to provide disable-accessible vehicles will place a burden on proprietors which is too onerous to carry, taking into account the nature of the work they undertake and the number of disabled people within the locality.
- 6.7 There would seem to be a good argument to say that if the vehicles are still available as private hire vehicles and if the predominant use pattern is for private hire type use, then a reduction in the number of hackney carriages may not, in fact, be unacceptable because transport will be maintained.

7.0 Security & Terrorism Implication(s)

- 7.1 None arising from this report.

8.0 Procurement Implication(s)

- 8.1 None arising from this report.

9.0 Climate Change Implication(s)

- 9.1 Consideration must be given to which type of vehicle could be suitable and therefore minimises any impact on the environment i.e. air pollution.

10.0 Link to Corporate Priorities

The subject of this report is linked to the Council's Corporate Priority to maintain a safe and healthy community, and specifically to work with partners to keep people safe.

11.0 Equality and Diversity

- 11.1 The EqIA identified that there is the potential for positive impacts on wheelchair users who use Hackney Carriage vehicles.

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