

WELWYN HATFIELD BOROUGH COUNCIL
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE - 27 JANUARY 2020
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING
AND GOVERNANCE)

REVIEW OF STANDARD CONDITIONS FOR THE LICENSING OF HACKNEY
CARRIAGE VEHICLES

1 Executive Summary

- 1.1 This report provides an update on the work carried out in respect of the proposed changes to the conditions applicable to our licensed Hackney Carriage vehicles.
- 1.2 A revised set of conditions for the licensing of hackney carriage vehicles have been developed and can be found in Appendix 1.

2 Recommendation(s)

- 2.1 That the Committee:
- a) Consider the revised Standard Conditions for the Licensing of Hackney Carriage Vehicles (Appendix 1) and recommend them to Full Council for adoption.
 - b) Consider the proposed implementation date of 1st April 2020 and recommend this date to Full Council for adoption.

3 Explanation

- 3.1 In 2018, the Environment Overview and Scrutiny Committee gave approval for the Hackney Carriage Team to carry out a consultation process to consider imposing certain licence requirements in order to bring about the introduction of Wheelchair Accessible Vehicles (WAVs) to the fleet of our licensed Hackney Carriages.
- 3.2 To assist with this process a sub group consisting of elected members, representative from the tenant's panel and Council officers was set up. The first meeting took place on 16th October 2018.
- 3.3 Consultation - The following action has also been carried out in respect of this consultation:
- An initial survey regarding the introduction of wheelchair accessible vehicles took place between June and August 2018. This was extended to December 2018 to include the general public.
 - The results of the initial survey and sub group meetings (16th October 2018, 8th November 2018, 13th December 2018 and 10 January 2019) were reported back to Environment Overview and Scrutiny Committee in January 2019. The proposed revision of the Hackney Carriage Conditions were also introduced and approval was given that the

proposed Hackney Carriage Licensing Conditions be put forward for a formal public consultation.

- The consultation took place between January 2019 and the end of March 2019.
- As part of the consultation process, two public meetings were held at Campus West in March 2019. All key stakeholders, consultees and the general public were invited to attend these meetings.
- All the data and comments received as a result of the consultation process have been collated and reported back to the sub group committee.
- The consultation process ended on 25th March 2019. Since then there have been two further meetings of the Sub Group committee on 4th July 2019 and 2nd October 2019 and all outstanding queries in relation to the feedback from the consultation have been addressed.

3.2 The sub group have agreed the revised set of Standard Conditions for the Licensing of Hackney Carriage Vehicles and have recommended the implementation date of 1st January 2020 for the revised set of conditions.

3.7 It was agreed at the last sub group meeting, on 2nd October 2019, that all drivers would be sent the revised Licence Conditions along with a covering letter and notice of the Environment Overview and Scrutiny Committee (EOSC) to be held on 19 November 2019, where there would be an opportunity for drivers to ask further questions.

Implications

4.0 Legal Implications

4.1 The Council has a public sector equality duty, under section 149 of the Equality Act 2010, to promote and advance equality of opportunity between persons who are in the 'protected categories' (as defined within the Act) and persons who do not fall within the 'protected categories'.

4.2 Under section 37 Town Police Clauses Act 1847 the Council has power to licence hackney coaches or carriages to ply for hire within the prescribed distance.

4.3 The Local Government (Miscellaneous Provisions) Act 1976 Section 47 provides that "a district Council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district Council may consider reasonably necessary".

4.4 Section 167 Equality Act 2010 gives a local authority power to maintain a list of designated Wheelchair Access Vehicles ("WAVs").

4.5 Section 165 Equality Act 2010, imposes certain, specified, duties on a driver of a designated taxi - with regard to WAVs - unless such a driver obtains an exemption certificate (on specified grounds) pursuant to section 166 of the Equality Act. The driver must carry the passenger while in the wheelchair and must not make any additional charge for doing so. If the passenger chooses to

sit in a passenger seat, the driver must carry the wheelchair. In addition, the driver must take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort and the driver must give the passenger such mobility assistance as is reasonably required. It will be an offence for a driver (unless exempt) of a taxi, which is included on the designated list, to fail to comply with these duties.

4.6 The proposed revisions to the Hackney Carriages Licence Conditions will enable the Hackney Carriage Office to create and maintain a list of 'designated vehicles'. Once such a list is in place, the duties which are set out in paragraph 4.5, above, will be triggered, subject to any successful appeal(s) by driver(s) against the decision to include their vehicle(s) on the 'designated list'.

4.7 With regard to consultation, it must:

- be clear and concise
- have purpose
- be informative
- last for a proportionate amount of time
- be targeted

Details of the consultation process which has been undertaken are set out within the body of this report.

4.9 If made the decision to implement the revised conditions and the implementation of the revised conditions will carry a risk of legal action: under section 47 of the Local Government (Miscellaneous Provisions) Act 1976, any person aggrieved by any conditions attached to a licence, may appeal to the magistrate's court.

5.0 Financial Implication(s)

5.1 There may be potential costs should any person launch a legal challenge against the decision.

5.2 There is a cost to the licensed drivers in the purchase of Wheelchair accessible vehicles.

6.0 Risk Management Implications

6.1 The risks related to this proposal are any legal challenge which may arise in relation to the validity of the proposed conditions or validity of the decision making process.

6.2 Failure to meet the Council's public sector equality duty under the Equality Act could, in addition to exposing the Council to risk of legal challenge, expose the Council to risk of reputational harm. This would also be the case in the event of challenge(s) being brought by a person under the Equality Act.

7.0 Security and Terrorism Implication(s)

7.1 None directly linked to this report

8.0 Procurement Implication(s)

8.1 None directly linked to this report

9.0 Climate Change Implication(s)

9.1 The proposed draft conditions will result in a cleaner taxi fleet in the long term.

10.0 Human Resources Implication(s)

10.1 None directly linked to this report.

11.0 Health and Wellbeing Implication(s)

11.1 The safety of public users and vehicle drivers is of paramount importance when considering licence applications.

12.0 Communication and Engagement Implication(s)

12.1 Communication and engagement with all the relevant stakeholders is a fundamental aspect of this process. The sub group is satisfied that this has been adequately carried out.

13.0 Link to Corporate Priorities

13.1 The subject of this report is linked to the Council's Corporate Priority (Maintain a safe and healthy community), and specifically to the achievement of improve and maintain the health and wellbeing of residents

14.0 Equality and Diversity

14.1 An Equality Impact Assessment (EIA) has been carried out in connection with the Introduction of Wheelchair Accessible Vehicles. It has identified that there is the potential for positive impacts on those who have a disability as some of those within this protected characteristic may be wheelchair users. A copy of the completed EIA report is included as Appendix 2 to this report.

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Background papers to be listed

Appendix 1 Revised Hackney Carriage Licence Conditions

Appendix 2 Equality Impact Assessment