

WELWYN HATFIELD BOROUGH COUNCIL  
COUNCIL – 20 JULY 2020

Recommendation from the Environment Overview and Scrutiny Committee on  
27 January 2020:-

REVIEW OF THE STANDARD CONDITIONS FOR THE LICENSING OF HACKNEY  
CARRIAGE VEHICLES

**Addendum Report - Appendix**

**Part A – Points raised by Mr Bunday and responses of the Taxi Sub Group Committee agreed at its meetings on 12 December 2018, 10<sup>th</sup> January 2019, 4 July 2019 and 2 October 2019.**

<b>Points raised by Mr Bunday in his letter of 7 July 2020</b>	<b>Equivalent survey representation/feedback considered by the Taxi Terms and Conditions Sub Group</b>	<b>Considerations of the Taxi Terms and Conditions (“Sub Group”)</b>	<b>Officer Response to ‘new’ representation/feedback</b>
<p><b>1. All vehicles to be WCAVs</b></p> <p>It is neither necessary nor advantageous to anyone to insist that all vehicles accommodate wheelchairs. Many wheelchair-bound customers prefer to transfer into the more secure seat of the taxi and find it both uncomfortable and frightening travelling strapped into their chair, especially when facing backwards.</p>	<p>“Have been helping passengers in and out of chairs for years no problems.”</p>	<p>At the sub group meeting on 12 December 2018, sub group members reviewed wheelchair accessible vehicles. Two members are wheelchair users and both were strapped into both rear and side loading vehicles and were happy that they felt secure. The advantages and disadvantages were discussed but the group came to agree that they were happy with the suitability and ease of use for the vehicles they viewed.</p> <p>It was also discussed at the sub group meeting on 4 July 2019 that not all wheelchairs are foldable for transporting for example some</p>	<p>Officers have attended on two occasions wheelchair vehicle conventions in which vehicles were viewed and there is a wide range of vehicles with different seating options available which may not necessarily mean a passenger would be facing backwards.</p>

<p>By limiting the scope of the vehicles provided within the fleet, you potentially create problems for customers with other disabilities. Many older people and those suffering from conditions such as achondroplasia, find it hard to get into vehicles which are higher up.</p> <p>Also, by limiting the variety of vehicles available, you alienate other customers who require alternatives such as an executive car, a saloon, an estate or a 6, 7 or 8-seater.</p>	<p>“Older passengers would not be able to use these vehicles.”</p> <p>“I do executive work and will lose this work if there is livery on my vehicle.”</p>	<p>wheelchairs can weigh around 72 kilos, passengers also have different mobility needs not all can get out of a chair.</p> <p>The concern would be over the high step into a WAV for non-wheelchair passengers. This would be resolved by the use of steps which has been considered in conditions further down. – Councillors agreed that accessible lower steps into vehicle would resolve the issue.</p> <p>This was discussed but would need to be reviewed.</p>	<p>Wheelchair vehicles will be purpose built, most will have fold out steps for this purpose to allow a passenger to alight with ease and safely. Hand rails will be part of the vehicle and on a balanced review should not cause anymore difficulty than an elderly customer trying to lift themselves from a saloon style vehicle or smaller people carrier from a seat or up or down a step.</p> <p>Currently this was brought up by one driver. As far as we are aware this would only affect a very small percentage of drivers who may do executive work. If a driver is solely doing executive work which would be mainly private hire and their customers did not want a WAV then is no reason why the vehicle cannot change</p>
--	---	---	---

<p>We have not been able to find any vehicles which comply with all of the Council's proposed criteria for under £13k plus VAT so would like to see your sources.</p> <p>Some driver's vehicles are near the 8 year age limit or have to replace their vehicles owing to mechanical problems or accidental damage. It is wholly unreasonable for the council to expect these drivers to find the thousands of pounds extra immediately or in the next few weeks or months.</p> <p>We also disagree that the proposed new vehicles are the same length as a non-WCAV. Again we would like to see your research. Many of the WCAVs are rear-loaded which would mean that additional space behind each taxi on the rank would be needed.</p>	<p>"Expensive to buy purpose built WAV – will this be funded?"</p> <p>"Rear and side loading issues been told cannot have rear loading."</p>	<p>At present there is no funding available through The Hackney Carriage or other agencies that we are aware of. The Hackney Carriage office has in fact looked into vehicles and expenses and they are quite affordable. Attending Expo last month a (brand new) WAV which would be suitable for purpose is available for under £22,000.</p> <p>This would be for the Committee to decide exact details of how and when terms may be implemented if agreed to proceed. This was also discussed at a sub group meeting in October 2018 that an option would phased programme of introduction.</p> <p>In relation to loading it was discussed and the sub group were happy that the driver have a choice of rear or side loading. Also confirmed at a sub group meeting on 10 January 2019 that side and rear loading acceptable in the interests of equality.</p>	<p>over to private hire.</p> <p>No change to funding since the meeting of the sub group in June 2019.</p> <p>This has been further discussed with the sub group and officers at a meeting on 16 June 2019. The Covid-19 pandemic was also taken into account and recommendations for future dates to implement will be discussed.</p> <p>A question was put forward by a driver that 5-10% of drivers use the ranks so this would only affect these drivers wanting to use the ranks. All advantages and disadvantages were discussed at sub group</p>
---	--	---	--

<p>We would also like to have sight of the Hackney Carriage Office's survey regarding the requirement for WCAVs. We acknowledge that it's possible that 98% of the public would think that WCAVs are a good idea and should be provided, but not that that the whole fleet should be wheelchair accessible. We have undertaken our own survey, which is available, and not one person said that they believed that all taxis should be WCAVs.</p>	<p>Survey results put to sub group meetings.</p>	<p>Sub group members have had view of the survey results since the surveys closed and all following meetings have taken the results into account.</p>	<p>meetings and balanced with the needs of the public which came through in the original survey results in June-August 2018. At the public meeting one councillor who uses a wheelchair stated they prefer rear loading so as to face forward so this would tie in with comments made earlier about customers preferring rear loading. However as stated also some side loading in fact allow passenger now to face forward. In relation to the length of the vehicle it depends on the make and model of the vehicle that they purchase as they are built on existing vehicle chassis.</p> <p>A breakdown of the survey results were shown at the public meeting in March 2019 which was an opportunity to view the data collected. This was based on information collected from all consultees. This is the first that officers have been made aware of a survey completed by drivers. We have not had sight nor any information who has been consulted and how this</p>
---	--	---	--

<p>If the Council continue on this route, many Hackney carriage and private hire/chauffeur cars will choose to be licensed by another district. The loss of revenue to the council already exceeds £10,000.00 and there will be more to follow. The Council will end up without a taxi service at all.</p> <p>If the Council feels there are not enough WCAVs within the borough, and the need is not fulfilled by the Private Sector, then the Council</p>	<p>“Failure to enforce out of area drivers.”</p> <p>“Council should provide funds.”</p>	<p>Irrelevant to this consultation.</p> <p>It was discussed that there was no funding available to accommodate this and that we could not operate as a private operator.</p>	<p>survey has been done. The survey results showed from our initial survey that in fact the two popular answers to amount of fleet to be changed was either 90-100% or 0-10% so this showed both ends of the spectrum from the consultees. Again this would be for discussion by the committee as to how terms are implemented. It was decided that the starting point had to be 100% as there was no clear option on how the terms can be implemented fairly without discriminating against drivers.</p> <p>Due to licence shopping the area, as with others has seen a reduction in new drivers and drivers leaving to licence cheaper somewhere else. The current Deregulation Act 2015 and case law supporting Uber is the main reason behind this.</p> <p>Hackney Carriage has seen a total of 4 new hackney carriage drivers over the last 2 years and based on these</p>
---	---	--	---

<p>should invest in vehicles and drivers themselves. It is the Council's obligation to provide this service, not the drivers. In addition, you could insist that all new drivers coming into the trade provide a wheelchair-accessible vehicle, thereby, in time, replacing the whole fleet.</p>			<p>figures it would not be viable to only put conditions onto new drivers as the public demand will not be met and in turn Council would be in breach of the Equality Act 2010.</p>
<p><b>2. Livery</b></p> <p>We are very disappointed to see this item proposed again. You will recall that the suggestion of a uniform colour and WHBC crest were raised back in 2006 and 2007. Our solicitors proved at the time that both these issues were illegal. The council dropped the idea of the uniform colour but continued with the insistence of drivers displaying the council logo on their vehicles. The case went to court and the Council lost on appeal, costing thousands of pounds. The outcome will be the same should the Council wish to continue along this route.</p> <p>One of the reasons given for changing the colour of the vehicles to a uniform silver colour, is that customers would more easily recognise them as taxis. At the moment, taxis are easily recognised by the roof light, for hire sign and the plate on the rear of the vehicle. In thirty-five years of driving a taxi, I have never had, nor heard of, any problems with anyone not recognising a vehicle as a taxi. Silver is not a standard universally kept throughout the county,</p>	<p>Livery makes little or no difference as seen by the surge of out of area vehicle not up to a good standard</p> <p>“Unnecessary public have no problem finding a WHBC taxi.”</p>	<p>There was a very strong public view on livery on the first survey that they do clearly recognise St Albans taxis who have a livery policy and the public would like to see that in Welwyn and Hatfield. Out of area vehicles are not recognisable and livery would make local drivers stand out amongst the out of area drivers.</p> <p>This may be obvious from the ranks but taxis can also be hailed in the street, not all drivers currently have the Welwyn Hatfield recommended top light and have standard taxi light which would suggest a local taxi until the rear plate is seen. Committee agreed with the comments. This was again brought up at the public meeting whereby a councillor</p>	<p>Case law has since supported livery as a sound and reasonable condition. R (on application of Simmons) v The Crown Court Guildford. The driver's appeal was dismissed. If a condition which applies or upholds a policy is 'reasonably necessary' any challenge would effectively undermine the policy.</p> <p>It has been identified by way of the survey results that the higher amount of responses want to see livery as a way to quickly and easily identify a local vehicle.</p>

<p>so why, therefore, do you believe that this would make the vehicle more like a taxi? There are many effective and more appropriate ways which could be implemented to more easily identify a taxi. Changing the car to silver, or any colour, is not one of them.</p> <p>The purpose of the Council is to provide a service for the residents of the district, not to shut down companies and, thereby, reduce the service. The actions of the Council are directly causing the folding of taxi companies and it would seem these companies are being specifically targeted.</p> <p>There are many government Acts that state that once you put a logo on a taxi you cannot put it on any other vehicle. Therefore, the Welwyn Hatfield logo could not be used, unless you remove it from all other vehicles. It is not permissible to make a hackney carriage look like any vehicle.</p> <p>Privately owned hackney carriage vehicles are not just used for work. Drivers do not want to get flagged down when they are not working, for instance, when they are on holiday. The Human Rights Act states that people have a right to privacy.</p> <p>As a side note, hackney carriages are permitted</p>	<p>As above</p>	<p>confirmed that they would want to hail a vehicle in the street not necessarily go to a rank where there would be local vehicles.</p> <p>The sub group in it's deliberations considered the requirements of the Equality Act 2010.</p>	<p>It is clear from the survey that the service is needed by the public and the Council has a duty under the Equality Act 2010.</p> <p>Hackney carriage vehicles will have a "for hire" light in view on the window and also the integral top light of WAV. The driver should only have these switched on when available for hire as is the standard use now there is no change to that, therefore there should be no reason for them to be flagged down when not in operation. They currently have a plate permanently fixed showing it is as hackney carriage.</p> <p>All advertising has to be authorised by the Council and is restricted to the rear</p>
--	-----------------	--	---

<p>to display advertising. Are the council willing to compensate drivers for loss of advertising space should the proposed logos be implemented?</p> <p>Under the Public Passenger Vehicle Act of 1981, a privately owned taxi is not a public service vehicle but is a private business owned by the driver. It is not owned by the council. With the current proposed scheme there would be a rolling change-over to the new silver livery which might take up to eight years to implement, by which time there might be a new council with different ideas.</p> <p>Standardised livery doesn't work. St Albans has had a standardised livery for approximately 20 years now and even still, non-liveried taxis are being flagged down. Customers from outside the district are not aware that there is a standard livery for the area and flag down any taxi with a light on. Customers do not care what colour taxi they get into. The Environment Overview and Scrutiny Committee stated that a standard livery would improve business of drivers, make local taxis more easily identifiable for local people who would also feel safer. What evidence do you have of these statements? Why would a customer feel safer in a silver car and not a black one? Why do you think that a change of</p>	<p>The survey results showed that the public do want to see livery and there were a number of comments and suggestions put forward:- 'stand out colour and signage', 'obvious stickers', 'recognisable colour and design' and 'visible to sight impaired people'.</p>	<p>The silver colour was decided by members of the sub-group as being a reasonable standard colour at a meeting on 10 January 2019 and that livery was important of terms of identity of vehicles to the public. Black and white were also considered at this time as being standard colours but a discussion on advantages and disadvantages was undertaken and silver was decided on.</p>	<p>passenger doors of the vehicle. The livery is to be placed on the front doors of the vehicle.</p> <p>It was not relevant for the consultation to take account of decisions that the Council may make take in the future.</p> <p>The survey results showed that the public as well as other consultee respondents tended to agree with livery and the idea of colour, badges and signage were put forward as what they wanted to see on a vehicle.</p>
---	---	---	--

<p>colour would improve business and why do you believe that local people need to be able to identify taxis more easily?</p> <p>As with all professions, there are rogue elements. If all cars were the same, it would greatly complicate identifying disreputable drivers. It would make it much harder, perhaps even impossible, for a lost purse or phone to be located, or more seriously, a dishonest or violent driver to be identified. It is of utmost importance to the honest members of the Association to identify these rogue drivers and have their licences revoked. If all cars looked the same, it would greatly complicate the identification of these disreputable drivers. The only defining description of the perpetrators of crime would be the sex of the driver and their skin colour, all other details would be the same. We need to make the detection of these drivers easier not harder.</p> <p>It is not only the safety of passengers that is reduced by the use of a standardised colour and logo but the safety of the drivers and their vehicles. As I'm sure you are aware, several taxis have been vandalised and broken into for cash etc, in Welwyn Garden City and surrounding areas. Many drivers feel it necessary to switch off their 'For Hire' lights and remove their roof lights when parked, so potential assailants won't recognise the vehicle</p>	<p>"No [the top lights] should be detachable when not in use to deter theft and vehicle break ins".</p>	<p>There is no statistical evidence to show this is a problem. Drivers should not be leaving anything of value in their vehicles this is a security issue for the driver. The vehicles already have plates on the back which are not removable and mark them as a taxi so a built in top light should not make them more vulnerable to theft.</p>	<p>If drivers are using their driver badges and internal plates correctly as they should do this should not be a problem.</p> <p>Vehicles currently have a permanently fixed plate at the back of the vehicle identifying them as a taxi at all times.</p>
--	---	---	--

<p>as a taxi. What the Council is suggesting would make it impossible to disguise a taxi and provide a perfect target on the side of the vehicle. Is the council prepared to foot the bill for damages to vehicles caused by the introduction of these standardisations? We believe you are inviting trouble by colour standardisation and the inclusion of a logo.</p> <p>Finally on the subject of livery, the Council should note that the National Private Hire Association has challenged the standardisation of the colour of private hire vehicles many times and has won every single case, which we have, in the past, given evidence of. The Association has also won all the cases where they have challenged the standardisation Hackney Carriage colour.</p>			<p>As above please see case law on Simmons v Guildford (Crown Court) in 2016.</p>
<p><b>3. Fixed Roof Light</b></p> <p>Again, we bring your attention to the fact that taxis are privately owned vehicles and for the Council to insist on permanent roof lights, is defacement and would reduce the value of the car when re-sold. Under the Human Rights Act, drivers have a right to privacy so not being able to remove the roof light would contravene this act. Also, we come back to the fact that a fixed roof light would call undue attention to the vehicle when left unattended, and create a target for thieves.</p>		<p>Please see comments above.</p>	
<p><b>4. Internal Licence Plate</b></p>			

<p>This is unnecessary as drivers already have a badge which must be on view to the customer at all times. Perhaps, reminding drivers of this instead of the added expense of installing a plate would suffice. Installation of an internal plate is again defacement, would reduce the value of the vehicle, contravene the Human Rights Act and create a target for thieves</p>	<p>Current rear plate and top light is sufficient along with driver badge on display.</p> <p>I do not want my vehicle damaged in anyway by an internal plate.</p>	<p>Members of the public do still struggle to identify a vehicle by the plate number and sometimes the plate colour. Stevenage vehicles use the same plate layout, size and colours as WHBC. It is not always clear straight away that the vehicle is WHBC one. From a public health and safety point of view an internal plate would be required. The first internal plates and logos will provided by the Council free of charge.</p> <p>Internal plates should not cause any major damage to vehicles, the same way rear plates are easily and securely attached. This was discussed.</p>	<p>As members of the public still have issues identifying vehicles especially from the outside when they do not always get a good view of the back plate. Drivers' badges should be on display and shown if requested but this is not always the case. The internal plate would be easily viewed especially by a passenger who may not feel confident on confronting issues directly with a driver.</p> <p>The internal plates will not cause any damage to the vehicle not deface in anyway. These are plastic cased paper plates that can stick to a windscreen or vehicle and should not cause any defacement as suggested.</p>
<p><b>General Points</b></p> <p>In summary, the Council cannot standardise the colour of vehicles, cannot insist on installing logos, or deface the vehicle in any way, ie, fixed roof lights and internal fixed plates. In addition, it is not in the public interest to reduce the scope of the fleet by making all vehicles wheelchair accessible.</p> <p>In light of the current economic climate and the</p>			<p>In relation to financial implications to drivers it is reasonable to understand that drivers will have had access to the 80% income offered by the Government and that this would have little or no major impact on a driver's finance as it was before the pandemic.</p>

<p>vulnerability of drivers' livelihood, do the Council really want to force more drivers out of business resulting in a total decimation of the service?</p>			<p>The recent pandemic was discussed by the sub group on 16 June 2020 and any possible implications were highlighted. The main implication being a financial one. It was agreed that the Full Council meeting was due to go ahead in January 2020 and that it should proceed to a decision but discuss the implications of the Covid-19 pandemic at the meeting on 20 July 2020.</p>
---	--	--	--

**PART B – CONCERNS COMMUNICATED TO THE RT HON GRANT SHAPPS MP BY A CONSTITUENT WHO IS A TAXI DRIVER**

<b>Concern raised</b>	<b>Officer Response</b>
<p>The financial implications of the changes on taxi drivers, especially given their financial struggles in light of the ongoing pandemic.</p> <p>The Council's understanding of the financial impact the changes to the Hackney Carriage Terms and Conditions will have on taxi drivers and how the already financially precarious position of many taxi drivers due to the current pandemic has been taken into account for any potential impact.</p>	<p>Potential financial implications were considered throughout the consultation. The Sub Group took account of these but was not of the view that the changes would incur significant additional financial costs.</p> <p>An implementation date of 1<sup>st</sup> October 2020 is included as a recommendation within this Addendum report. In the event that Council approves the adoption of the revised Standard Conditions, Council will, in deciding on the implementation date, consider any financial impact which the change to the Standard Conditions may have on hackney carriage drivers in light of the ongoing covid-19 pandemic.</p>