

VARIATIONS TO HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Officer contact: Caroline Steven DDI: 01494 - 421222
Email:

caroline_steven@wycombe.gov.uk

Wards Affected: All

PROPOSED RECOMMENDATION

Having taken into consideration the comments received as part of the consultation exercise, the Committee is asked to consider the proposed amendments to the Hackney Carriage and Private Hire Policy and conditions as described in the report below and recommend the revised policy to Council for approval to become effective from the 1st of April 2017.

Executive Summary

Members will recall that they considered proposed amendments to the Hackney Carriage and Private Hire Policy for the purposes of a consultation exercise at their meeting in October last year. The consultation has now concluded and Members are asked to re-consider the proposed amendments in light of the comments received.

Corporate Implications

The Council is required by law to license the operation of taxis and private hire vehicles. The paramount consideration in this respect is the safety and convenience of those travelling in licensed vehicles. The Local Government (Miscellaneous Provisions) Act 1976 permits local authorities to place conditions on licensed private hire and hackney carriage drivers and vehicles. Conditions should be aimed at improving service and protecting the users of licensed vehicles.

Policy/Community Plan Implications

The amendments suggested would contribute to all of the objectives set out in the Corporate Plan.

Detailed Report

1. The Hackney Carriage and Private Hire Licensing Policy was last formally reviewed in 2012. Further review was postponed until now due to anticipated comprehensive changes in licensing law as a result of a Law Commission report in this area. This report did not, however, result in any significant changes and so it was considered appropriate to review and update the policy.
2. Further to approval from this committee, the draft revised policy was subjected to a 12 week consultation exercise with all current licence holders, along with other relevant bodies, organisations and individuals representing all sections of the community.

3. Meetings were also held with both the hackney carriage and private hire trades so that views could be aired and questions answered.
4. Copies of all of the comments received have been appended to this report for information and a summary is provided below along with responses.

HACKNEY CARRIAGE TRADE

5. The hackney carriage trade provided a document following our meeting with them in December, a copy of which is at (Appendix A). The comments relate to 4 main issues as detailed below.

Rear Loading Wheelchair Accessible Vehicles

6. The draft revised policy included a proposal to permit rear loading wheelchair accessible vehicles, which have not previously been authorised as hackney carriages. Several comments were received from individuals in support of this proposal, which was also generally supported by the private hire trade. A large section of the hackney carriage trade, however, is opposed to this proposal on the grounds of public safety.
7. They state that rear loading vehicles would not be suitable for use as hackney carriages given that the passenger might have to be loaded from the road and may have to negotiate a kerb to access the rear of the vehicle, which would be extremely difficult for those using power wheelchairs. It is also stated that the position of the wheelchair user falls within the “crumple zone” of the vehicle in the event of an accident and that there would be no alternative means of escape.
8. The trade have quoted reports by national organisations such as RADAR, Scope, and Disabled Persons Transport Advisory Committee who state that rear loading wheelchair accessible vehicles should not be used as hackney carriages for the above reasons. They have also quoted the Department for Transport’s Best Practice Guidance which also recommends the use of side loading vehicles for similar reasons.
9. The trade finally have finally stated on this issue that should rear loading vehicles be permitted as hackney carriages, a formal risk assessment should be carried out on individual vehicles.
10. Benchmarking has been carried out on this issue and advice has been sought from organisations dealing with disabled people and those dealing with vehicle safety. The outcome of this research has proved to be far from conclusive. There is no consistency between authorities on this subject and apparently no definitive answer in terms of suitability. Many authorities permit rear loading WAV’s so long as the vehicle has

been issued with an Individual Vehicle Approval certificate. Some authorities also have conditions about the vehicle being in a suitable and safe location to load wheelchairs.

Age Limits for Wheelchair Accessible Vehicles

11. The trade consider that the existing age limit of 14 years should remain in place for all wheelchair accessible vehicles on the basis that these vehicles cost more than saloon vehicles and that drivers are struggling to earn a reasonable wage. They have suggested that a more appropriate age would be 12 years.
12. It is considered that the vast majority of wheelchair accessible vehicles over the age of 10 years are not in a suitable condition to continue to be licensed due to their high mileage and general wear and tear. It is accepted, however, that some vehicles will continue to be in an acceptable condition and that these would be permitted to be licensed further to inspection and specific approval by a licensing officer. It would be expected that such vehicles would have clean bodywork which is free of dents, scratches and rust and that the interior of the vehicle would also be in a clean, undamaged and unworn state.
13. It is always possible to depart from policies in appropriate circumstances, but for the avoidance of any doubt, it is suggested that the policy be amended to make specific allowance for vehicle to be licensed in exceptional circumstances beyond the usual 10 year proposed period, where express consent has been given by a Licensing Officer. Any licence would in any event cease once the vehicle reaches 14 years old.

Tinted Windows

14. The trade have requested that the requirements in relation to tinted windows are relaxed even further than the current proposal of 60% light transmission. Their suggestion is that any manufactured tint should be permitted. This is based on the findings of a survey conducted across 43 police forces which suggested tinted windows have never contributed towards the commission of any offence or alleged offence by anyone in a taxi.
15. It is suggested that the findings of this survey may be misleading and / or misrepresentative for 2 reasons. Firstly, a large number of local authorities do not permit heavily tinted glass in licensed vehicles and so these would not be included in any such survey and secondly, it is extremely unlikely that the tint level of the glass in a vehicle would be recorded when police investigate any offences which take place in licensed vehicles.

16. As stated in the previous report on this issue, research has been carried out with all of the major vehicle manufacturers on this subject and they have confirmed that standard models would all generally comply with a tint level of 60% light transmission. The only exception to this appears to be the Toyota Prius Plus which comes with standard factory tint of less than 30% light transmission, making visibility into the rear of the vehicle almost impossible. Operators are continuing to purchase and use this model of vehicle, although they have to pay in the region of £800 per vehicle to have the rear glass replaced.
17. It is agreed that it is very unfortunate that an environmentally friendly vehicle is manufactured with entirely unsuitable rear glass and a letter has been sent to Toyota explaining that this model is widely used for private hire purposes and that it would not comply with the majority of local authorities tinting policies.
18. For public safety reasons, it is considered that there should be a clear view of the inside rear of licensed vehicles, both for the protection of the public and for the driver. As such, it remains the opinion of officers that the tinting level should only be reduced from 70% light transmission to 60% light transmission.

Warnings / Advisory Notices

19. The trade have stated that they do not consider that any warning or advisory letters should remain on file or be taken into consideration for more than 3 years, regardless of any other issues which may have arisen during this period of time. They have stated that it is unfair to keep records of any complaint on file for longer than 3 years.
20. The current policy in relation to complaints and other enforcement issues is that a record of any warning or advisory notice will be retained on file and taken into consideration for a period of 3 years, unless further matters arise during that period in which case the original warning or advisory notice will continue to be taken into consideration until a clear period of 3 years has passed where there have been no complaints or other issues have arisen.
21. The purpose of this policy is to establish whether there are any patterns of behaviour which cause concern as to a driver's fitness to hold a licence to drive members of the public. This is particularly the case in relation to driving standards and behaviour.
22. It was explained to the trade at the meeting in December that every case is treated on its own merits, that careful consideration is given to cases where formal action may be taken against a licence and that officers fully appreciate that in many cases a driver's licence will be their livelihood. It was further explained that any decision to revoke a

licence would generally be taken in conjunction with the Council's Legal Services department.

23. Although the number of licences which have been revoked as a result of repeated complaints under this policy is relatively low, it is considered to be an important tool in considering whether a driver can still be considered "fit and proper" to hold a licence. It is therefore suggested that this aspect of the policy should remain unchanged.

PRIVATE HIRE TRADE

24. Following our meeting with the private hire trade in January, they also submitted a document laying out their concerns and comments in relation to the policy and these are detailed below. A copy of the document is at (Appendix B)

Minimum Seat Size Requirements

25. The trade do not consider that there is any need to have minimum seat and leg room dimensions in licensed vehicles and state that no complaints have been received in relation to this matter. They agree that some vehicles offer less leg room but state that the difference is small and that it would not cause a problem unless the passenger was large. They further state that most journeys taken are short and therefore this is not an issue. The trade have also requested a definitive list of vehicles which would comply with the proposed policy.
26. At the meeting, the trade also suggested that if a vehicle had been approved for use by members of the public, it should be approved for use as a licensed vehicle.
27. As explained to Members at the last meeting of this committee, and also to the private hire trade at our meeting with them in January, it has come to the attention of officers that some seats in the front of certain vehicle models are entirely unsuitable for an adult passenger, in that they provide virtually no leg room and require the passenger to sit at an inappropriately close distance to the gear stick and driver.
28. It is suggested that the length of the journey is irrelevant in relation to whether a seat is inherently unsuitable and that, in any case, many journeys taken are not short in nature, such as to airports. It is also not possible to place conditions on vehicle licences which specify the size of passenger who is permitted to use specific seats.
29. It is further suggested that the approval of a vehicle for use by friends, family members or colleagues cannot be compared with its approval for use by paying customers where the driver is unknown to them.

30. In relation to the licensing of private hire vehicles, section 48 of the Local Government (Miscellaneous Provisions) Act 1976 requires that vehicles are suitable in size, type and design and are safe and comfortable for use.
31. Having carried out benchmarking, both locally and nationally, I can confirm that requirements in relation to seat dimensions are extremely common, with the majority specifying minimum leg room and a minimum seat width of 16 inches.
32. It is therefore considered that this requirement, which was previously a condition of vehicle licensing in Wycombe, should be implemented both from a comfort and safety perspective for passengers.

Tinted Windows

33. The trade have stated that the proposed tinting policy is unnecessary in 95% of the vehicles that are likely to be licensed. They have requested that the tint policy is removed or that only vehicles with very dark tints are restricted. They have further stated that other Councils are in the process of removing, or have already removed, their tinting policies.
34. This issue has been dealt with above at paragraphs 14 – 18, where it is agreed that the Toyota Prius Plus is manufactured with very dark tint in the rear glass which is unfortunate. Benchmarking has revealed that Slough Borough Council has recently relaxed its policy in relation to tinted windows to allow manufactured tint, although no other authorities in the surrounding area are known to have either recently changed their policies in this respect or that they intend to do so.

Age of Wheelchair Accessible Vehicles

35. The trade have raised concerns about the proposal to reduce the age limit of wheelchair accessible vehicles due to the cost of purchasing this type of vehicle. This issue has been addressed at paragraphs 11 – 13 above.

Notification of Offences

36. The trade considers that the requirement to notify the Licensing Unit if they have been charged with any offence within 72 hours is too stringent and that only serious offences such as murder or sexual assault should need to be notified this quickly. They consider that for all non-serious offences, notification should only be made on conviction, not at the time when the driver is charged.
37. It is considered to be vitally important that the Licensing Unit is notified of any criminal offence in a timely manner so that necessary action can

be taken in appropriate circumstances. It is also impossible to provide a definitive list of “serious” offences given that some motoring offences may be considered to be serious and may depend on the specific driver’s previous history. It is also considered important to have a consistent policy in relation to all offences so that there is no confusion as to the action required to be taken.

Knowledge Test

38. The trade have stated that the current knowledge test is very difficult, that it is too expansive in its coverage and that the pass rate is very low. The trade have requested that the number of questions should be reduced to about 15-20 questions and that some questions relating to knowledge of the district should be removed. The trade have also suggested that a simplified version of the conditions should be produced.
39. Although not falling strictly within the purview of this policy review, this issue was discussed at the meeting in January and it was agreed that the test would be reviewed with representatives of the trade so that any questions which are not considered to be sufficiently clear in meaning can be reworded or removed. It was also agreed that a simplified version of the conditions would be produced to assist new applicants and existing drivers, although the actual licence conditions would obviously remain the mandatory document.
40. It is, however, considered that applicants should be tested on their knowledge of the district, along with the conditions of the licence, the Highway Code and customer care / disability awareness. It is not therefore suggested that the content of the existing test should change.

Medical Testing

41. The trade consider that the medical certificate should be able to be completed by any practitioner registered with the General Medical Council (GMC). Drivers are currently required to have the certificate completed by a doctor at their registered surgery although the trade states that some surgeries are charging up to £200 for this service and that there can be significant delays in obtaining an appointment. They further state that appointments can be obtained elsewhere within a short period of time and that the cost can be as low as £50. The trade also state that any doctor can have access to the patient’s records if provided with their NHS number.
42. The current requirement for medical certificates to be completed by a driver’s registered surgery was implemented as a result of fraudulent certificates which were provided by persons who were not registered with the GMC and who did not have access to the applicant’s full medical records.

43. Having made enquiries with the NHS, it has been confirmed that it is possible for patient's records to be shared with different surgeries, although this is a new system and has been little used by members of the public. It is also not clear whether records can be shared between different NHS Trusts or whether they can be shared with private doctors. It is also possible that full details for some ongoing treatments or health investigations may not be provided within shared notes.
44. As a result of this, it is suggested that in the interests of public safety, the existing requirements in relation to medical certificates should remain in force.

Driving Standard Test

45. The trade considers that applicants (and existing drivers in certain circumstances) should not be required to undertake an additional practical driving test for licensed drivers. They consider that this is unnecessary given that they will already have taken and passed a practical driving test and they believe this test to be no different.
46. The DVSA, which previously provided the practical test for licensed drivers, set out criteria for testing which were aimed specifically at licensed drivers. The new test providers use these same criteria to ensure that any applicant is capable of driving at an acceptable level for a licensed driver who carries members of the public for financial gain.
47. It is considered that, as a result of being professional drivers, hackney carriage and private hire drivers should be tested to a higher standard than those who only drive themselves or friends / family. This is in much the same way as PSV and HGV drivers are required to undertake additional testing.
48. Also, where drivers have moved to this country from abroad, it is not possible to verify the level of testing undertaken in their country of origin and so the requirement to pass a test with set criteria ensures a consistency in driving standards.
49. The DVSA style test is now required almost without exception by any authority for applicants wishing to be licensed to drive hackney carriages and private hire vehicles. It is also known that some candidates have failed the test on their first or second attempt which indicates that it is a reasonable and necessary requirement.

Bus Lane Use

50. The trade have requested that private hire vehicles should be permitted to use bus lanes in the same way that hackney carriages are currently

permitted to do so. The trade understands that this falls within the powers of Bucks County Council and they have requested that the County Council is lobbied in this respect.

51. This request has been forwarded to Bucks County Council.

Door Stickers

52. The trade state that the quality of the Council issued door stickers is poor and that the stickers disintegrate and are costly to replace. It is the opinion of the trade that the door stickers are no longer required and that the requirement should be removed due to modern technology which permits text messages to be sent to passengers providing vehicle details.

53. As explained to the trade during the meeting in January, the door sticker provider was changed about a year ago further to complaints about quality and no further complaints have been received since the new stickers have been provided. Many of the previous stickers were also replaced free of charge to licensees where evidence was provided of unacceptable deterioration.

54. In terms of the requirement for Council issued door stickers generally, it is considered that these stickers are an important and effective means of the public and enforcement officers being able to quickly and easily identify a vehicle which has been licensed by this authority. Not all companies use systems whereby the customer is sent a text confirming the vehicle details and not all companies use their own door stickers which would indicate that the vehicle was licensed, although these stickers would not provide confirmation in themselves that the vehicle was in fact licensed.

Executive Licence Plates

55. The trade do not agree with the policy on executive licence plates, insofar as they think that the level of information required is excessive and that such vehicles should be able to be used by any customers.

56. The policy in relation to executive licence plates has been considered by this committee on more than one occasion. The purpose of the policy is to ensure that these vehicles, which have minimal signage to indicate that they are licensed and are permitted to have heavily tinted rear windows, are only permitted to be used for bona fide business people, executives or other persons who may wish to keep their identities hidden from public view.

57. The policy states that reviews are carried out on booking records on an annual basis and further information may be required from new clients

or where the booking records indicate that the operator's business pattern may have changed significantly.

58. In the interests of public safety, it is suggested that no change should be made to the existing policy which has worked successfully since its implementation in 2012.

Change of Vehicle / Variation of Licence

59. The trade have stated that the rules in relation to replacement vehicles have recently been changes without consultation. I can confirm that the new arrangements for replacement vehicles came into force in 2012 further to full consultation with the trade. The new arrangements were brought into force as a result of comments made by a consultant representative of the trade who submitted comments on the draft revised policy which stated that licences cannot be varied and therefore a new licence must be issued.
60. Where operators change a vehicle partway through the licence period, the application is therefore treated as a new application and is processed in the same manner as any other new vehicle application. A discount is given where there are more than 6 months remaining on the original licence, which reflects the cost of enforcement for that period of time.

CCTV / Audio Recording

61. The trade have objected to the proposed new policy in relation to the use of audio recording with CCTV in licensed vehicles and state that they should be able to record audio at all times when the CCTV system is in use.
62. As explained to the trade during the meeting in January and confirmed by information subsequently provided to them, the proposed policy in relation to CCTV is in line with other local authorities and as a result of rulings made by the Information Commissioner which prohibits the use of constant audio recording in licensed vehicles on the grounds that it is a breach of the passengers' human rights.

Complaints Procedure

63. The trade consider that complaints should only be held on file where they have been proved and that the current system permits members of the public to submit multiple bogus complaints under different names.
64. In the experience of officers, it is extremely rare for bogus complaints to be made and they are generally obvious and therefore not taken into

consideration or held on file. Details are requested from the complainant to verify their identity and to confirm that it is a genuine complaint. In the vast majority of cases it is also not possible to prove or disprove any complaint.

65. This issue has been further dealt with at paragraphs 22 – 26.

Certificate of Good Conduct

66. The trade consider that it is unreasonable to require drivers or applicants to provide a certificate of good conduct where they have been out of the country for a period of 3 or more months.

67. The Disclosure and Barring Service is only able to carry out criminal records checks within the United Kingdom and so it is necessary to verify whether a driver or applicant has been convicted of any relevant criminal offences when they have been abroad for an extended period of time.

68. Drivers and applicants appear to have had no difficulty in providing these certificates since the requirement came into force in 2012 and all drivers should now be aware of the requirement and so should be able to apply for the certificate at the local police station in the foreign country before they leave, thereby preventing any delay in a licence being issued.

69. In the interests of public safety it is suggested that the requirement in relation to certificates of good conduct should remain unchanged.

Advertising

70. The trade disagree with the current advertising policy and consider that advertising should be permitted both on the inside and outside of licensed vehicles. They have stated that the majority of advertising would be for local businesses.

71. This issue was discussed during the meeting in January and it was suggested that the trade propose an amended policy which allowed specific and limited advertising, although this has not been received and it would appear that the trade are requesting that any form of advertising should be permitted on licensed vehicles.

72. The majority of licensed vehicles already display signage, issued by both the Council and the use of company stickers, on all four vehicle doors. It is the view of officers that any additional signage on the outside of the vehicle would cause vehicles to look untidy and undermine the message of the requirement to pre-book private hire vehicles.

73. The trade also raised general concerns about the large number of out-of-area vehicles and drivers now working within the district. This concern is shared by officers, although the majority of these vehicles and drivers live within the district and have chosen to obtain a licence from an authority with lower requirements and where it is easier to obtain a licence. It is suggested that lowering standards within Wycombe to the “lowest common denominator” is not an advisable option. Officers are actively working with the 3 main authorities where this phenomenon has arisen in an attempt to resolve the issue. It should also be noted that many operators licensed by this authority are actively obtaining vehicle licences and driver licences for their drivers from these authorities to work in this area.

OTHER COMMENTS

74. In addition to the comments received from the hackney carriage and private hire trades at (Appendices A and B), 14 other comments were received from either individuals or companies, copies of which are attached at (Appendix C). Some of the issues raised relate to those covered above but a summary of comments covering different issues is provided below.

75. 3 comments received were in favour of extending the age limits for licensed vehicles.

76. One comment was received in favour of reducing the age limits of wheelchair accessible vehicles. The commenter went on to approve of the policy generally and to suggest that licensing officers should be given more authority.

77. One contributor stated that it was unfair that hackney carriage drivers are permitted to charge different tariffs depending upon the time of day, whereas private hire drivers are not and that there should be only one price policy. The Council is not permitted by law to set fares for private hire vehicles and so this is purely a matter of market forces.

78. The same contributor went on to state that there should be more saloon hackney carriages given that very few wheelchair users make use of hackney carriages and that hackney carriages should be rear loading as opposed to side loading. They further commented that there should be no requirement for door stickers and that the licence plate should be smaller.

79. 3 comments received requested that the age of wheelchair accessible vehicles should remain at 14 years, unless the Council permit rear loading vehicles, which are cheaper, in which case the age limit could be reduced to 10 years.

80. One comment received stated that the writer did not agree with the new policy but did not provide any further detail.
81. One comment received stated that drivers should be required to have eye tests every 12 months and that for drivers over the age of 60, these should be carried out by an optician as opposed to a general practitioner.
82. One comment requested information on who would provide the CSE training and whether drivers would still need to complete the training if they had done so elsewhere.
83. One comment stated that several of the policy amendments were positive, with the exception in relation to the revocation of licences where a serious matter has arisen and which is being investigated. As explained to Members at the last meeting of this committee, the need to revoke, rather than suspend, licences has arisen as a result of case law which prohibits licences from being suspended pending the outcome of an investigation and subsequently revoked.
84. It is proposed that there would be a means by which licences could be quickly re-issued in cases where it is shown that any allegation was false that the driver is confirmed to be fit and proper to hold the licence.

Background Papers

Files in Environmental Services