

Report to:	Licensing Committee
Date:	6th January 2020
Title:	Taxi Licensing Guidance Review
Report of:	Director of Service Delivery
Ward(s):	All
Purpose of report:	To consider the results of the public consultation regarding the Hackney Carriage and Private Hire Guidance in relation to reviewing the existing Guidance in relation to Wheelchair Accessible Vehicles
Officer recommendation(s):	That the Licensing Committee consider the comments from all parties in relation to the consultation and decide upon one of the options detailed in 5.2 – 5.5
Reasons for recommendations:	Enable the Licensing Committee to review the proposed changes to the Guidance in relation to Wheelchair Accessible Vehicles and the comments identified by public consultation.
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1 Introduction

- 1.1 The draft Guidance went to the Licensing Committee on the 30th September 2019 for consideration. The Guidance was agreed subject to several minor amendments and came into effect from 1st December 2019.
- 1.2 Members asked that an Equality Impact Assessment was undertaken. Following consultation with the Councils Lead on Equalities, advice was received that an Equality and Fairness Analysis (EaFA) should be undertaken to fulfil the Equalities Impact Assessment. This was completed and submitted to the EaF Planning Group and to the EaF Stakeholder Group (representatives of organisations who promote the interests of groups protected under the Equality Act 2010) for comment. In relation to the proposal to make all new Hackney Carriage Vehicles Wheelchair Accessible Vehicles (WAVs) the EaFA is contained in Appendix 1. Also in Appendix 1 are the comments of the EaF Stakeholder Group and note that no comments were received from the EaF Planning Group
- 1.3 Following the last meeting of the Committee on 30th September 2019 the

Functional Lead Quality Environment agreed with the Chair on 4th December 2019 other minor changes that had been proposed by the Taxi Trade during the consultation process where minor errors and grammatical changes were highlighted.

2 Background

- 2.1 Currently the law only allows the Licensing Authority to stipulate that Hackney Carriages be WAV's and this cannot apply to Private Hire Vehicles ("PHVs"). In terms of wheelchair accessibility the relevant case law includes *R v Manchester City Council, ex p Reid and McHugh* and *R v Lincoln City Council, ex p King and Cook, R v Luton Borough Council ex. p Mirza*.
- 2.2 The Department of Transport: Taxi and Private Hire Vehicle Licensing Best Practice Guidance (March 2010) at paragraph 14 points out that different accessibility considerations apply between taxis and PHVs since taxis can be hired on the spot whereas PHV's can only be booked through an operator. It is considered that a disabled person should be able to hire a taxi on the spot with the minimum of delay or inconvenience, and having accessible taxis helps make that possible.
- 2.3 The applicable legislation in relation to WAV's is contained within Equality Act 2010 which permits the Authority to keep a list of WAV's which is published on the Council's website and a requirement to carry assistance dogs, unless an exemption certificate had been obtained. 72% of authorities maintain a list of wheelchair accessible taxis in accordance with section 167 of the Equality Act 2010, while 62% maintain a list of wheelchair accessible PHVs.
- 2.4 The Law Commission's review of Hackney Carriage and Private Hire legislation in 2014 included matters relating to access to Hackney Carriages by disabled persons. It is acknowledged that the Law Commission's report does not advocate 100% WAV fleets and raises concerns about the potential harm of focussing solely on wheelchair users, to the detriment of people with other disabilities. The report also advocates a mixture of WAV's which includes both side-loading vehicles and those where the wheelchair is loaded from the rear. The report also recommends giving due consideration to alternative aids to accessing vehicles by disabled persons, for example swing seats.
- 2.5 A number of disability groups have made it clear that at the current time they feel that the current fleet does not provide for their needs and that there are insufficient WAV's meeting these needs. They cited locations such as London that require all Hackney Carriages to be WAV's and Brighton which require all Hackney Carriage multi-seater vehicles (5 – 8 passengers) to be WAV's.
- 2.6 The Department for Transport published Taxi and Private Hire Vehicle Statistics for England in 2019. 66% of authorities require all or part of the taxi fleet to be wheelchair accessible, an increase from 65%. All 20,100 London taxis were wheelchair accessible as required by Transport for London's 'Conditions for Fitness' taxi licensing policy. Similar to last year, in England outside London, metropolitan areas had 82% wheelchair accessible taxis. However, when looking at all licensed vehicles 19% of licensed vehicles in London were

wheelchair accessible, compared to 11% of licensed vehicles in rural areas. At the time of writing WAV's make up 23% of all Hackney Carriage vehicles in the Borough and currently only 2% of PHV's are WAVs.

- 2.7 The proposal to require all newly licenced vehicles to be WAVs will undoubtedly have a financial impact on proprietors due to the higher prices of these vehicles compared with those of saloon car type vehicles. Research has been undertaken to establish the cost difference of side and rear loading WAV's. The cost of a sidelading WAV is in the region of £38,000 (Ford Procab) and a rear loading (Peugeot Premier) is £22,000. For comparison the price of a new Skoda Octavia is £18,000 but these are permitted up to the age of 5 years and can be obtained at a lower cost.
- 2.8 Members may also wish to consider that a Hackney Carriage fleet that entirely consists of WAVs would lead to a reduction in the number of vehicles that can be accommodated on the taxi ranks due to the larger size of these vehicles.

3 Notable changes to WAV Guidance

- 3.1 The proposal in the consultation on the Guidance was that new Hackney Carriage Vehicles would only be licensed if they are wheelchair accessible. The vehicles may be either side or rear loading or both.
- 3.2 The current Guidance on WAV's states that any new vehicle licence will only be released to side loading WAV's capable of carrying 5,6,7 or 8 passengers and are European Whole Vehicle Type Approved. This took effect from 22 April 2009. Currently the Licensing Authority licenses only side loading Hackney Carriage WAV's. The current Guidance in relation to WAV's is produced as Appendix 2.

4 Key findings from the Consultation

- 4.1 In the consultation process which occurred between 23rd April 2019 and 18th June 2019, 272 electronic responses were received to the online survey and 12 written replies. The responses can be further broken down into 162 responses from residents and 98 from drivers/operators. The full consultation response is provided in previous committee papers.

In relation to WAV's:-

- 36% of respondents said they felt there is no unmet demand in Eastbourne for WAV's with 29% believing that there is unmet demand.
- 70% of drivers felt that there is no unmet demand whereas 40% of residents felt there was an unmet demand (with 42% of residents stating that they did not know).
- 36% of respondents agreed that when Hackney Carriage Vehicles are replaced they should all be replaced with WAV's. 58% of respondents disagreed with this proposal. (83% of Hackney and PHV drivers disagreed with this proposal. 46% of respondents with a disability agreed with the proposal).

5 Options for consideration by the Licensing Committee

- 5.1 The Committee are requested to amend the current Guidance by adopting one of the following options:
- 5.2 Option 1 - Require all new Hackney Carriage vehicles to be replaced by WAV's, noting this would eventually lead to a 100% WAV fleet.
- 5.3 Option 2 – For proprietors with plates licenced prior to April 2009 they will only be required to have a WAV when the plate changes ownership. Members may be aware that this suggestion was put forward in the last meeting. Although this would eventually lead to a 100% WAV it would take longer than Option 1. All other new Hackney Carriage vehicles to be replaced by WAV's.
- 5.4 Option 3 - Keep the current arrangements whereby only additional Hackney Carriage plates introduced to the trade are required to be WAV's.
- 5.5 In addition to options 1, 2 and 3 WAV's are currently side loading but respondents have requested that both side and rear loading should be permitted. The Committee is asked to consider if WAV's should remain as side loading or whether both side and rear loading WAV's can be permitted.

6 Financial appraisal

- 6.1 There are no significant financial implication associated with this report.

7 Legal implications

- 7.1 There is no statutory requirement for the Licensing Authority to adopt any Guidance in relation to Hackney Carriage or Private Hire licences but it is considered best practice to do so as it informs and guides decision makers and assists with consistent decision making. It also serves to inform and guide the Trade and the general public. However, any Guidance is not a fetter on decision making as each case must be considered on its own merits.
- 7.2 The Legal considered and commented on this Report on 18 December 2019 (IKEN-8059-MW).

8 Risk management implications

- 8.1 It is important that these changes are considered to ensure the safety of the Public and that the needs of the public and equalities have been fully considered.

9 Equality analysis

An Equality and Fairness Analysis has been undertaken and this is provided as Appendix 1.

10 Sustainability and/or carbon reduction implications

10.1 Sustainability was considered at the previous Committee meeting and the introduction of the relevant Euro Standards for vehicle emissions was introduced as a starting point to further improve air quality within the borough.

11 Appendices

- Appendix 1 - Equality and Fairness Analysis
- Appendix 2 – Current WAV Quality Control Guidance

12 Background papers

The background papers used in compiling this report were as follows:

[Taxi and Private Hire Licensing: Best Practice](#)

[The Law Commission Taxi and Private Hire Services Report 2014](#)