

Report to: Licensing Committee

Date: 17 December 2020

Title: Hackney Carriage Wheelchair Accessible Vehicles (WAVs) in Lewes District Council

Report of: Specialist Advisor – Licensing

Ward(s): All

Purpose of report: To consider options outlined below.

Officer recommendation(s): To consider the three options outlined in paragraph 2.5 if the Committee decides to progress options a) or b) to agree to consult on all options for 6 weeks as part of the consultation process on changes to the Guidance.

Reasons for recommendations: At the Licensing Committee on 19 September 2019 it was agreed that consideration be given to the wheelchair accessibility of hackney carriage vehicles.

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1 Introduction and Background

- 1.1 This report is produced as a result of a Licensing Committee on 19th September 2019, when the current Hackney Carriage and Private Hire Licensing Guidance was being discussed and the Committee agreed that the issue of WAV's for hackney carriages should be considered at a subsequent meeting. This was on the basis that there were some concerns from Members about whether there were sufficient WAV's available to the public.
- 1.2 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 Private Hire Vehicles (PHVs) since taxis can be hired on the spot whereas PHVs 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.
- 1.3 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.

- 1.4 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. 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.
- 1.5 Section 165-167 Equality Act 2010 allows the Council to create a list of WAV's – which can be either private hire or hackneys. Lewes District Council holds a list of all WAV vehicles on its website.

2 Current Position

- 2.1 Lewes District Council currently has no limit on the number of hackney carriages which may be licensed in the district. There is currently no intention to limit the numbers.
- 2.2 There are 138 Hackney Carriages licensed of which five are WAV. There are 468 Private Hire Vehicles licensed of which three are WAV.
- 2.3 Lewes District Council has one licensed operator whom only provide School transport with a fleet of 70+ WAV's but these are not included in the number as can only be used on school transport.
- 2.4 The Council has no control over how many Private Hire Vehicles can be classified as WAV. It can, however, control the number of WAVs in the Hackney Carriage Trade. .
- 2.5 There are three options open for consideration :
- a) Applications for a new hackney carriage vehicle licence will not be granted unless the vehicle is Wheelchair Accessible, it could either be side or rear loading. This would not apply to existing licence holders of hackney carriage vehicles who apply to change their vehicles.
 - b) With effect from 1st June 2022 (or a date to be agreed) all applications for new and replacement Hackney Vehicle Licences will only be granted to those vehicles that are Wheelchair Accessible
 - c) Maintain the current situation and number of WAV's to evolve naturally.
- 2.6 The effect of b) is a complete WAV fleet within ten years.

2.7 Maintaining the current position as outline in option c) gives no guarantee of any increase in WAVs. There is the distinct possibility of the District being left with no WAVs in the Hackney Fleet, through a process of those few that have them leaving the trade or changing their vehicle to a saloon or multi seater vehicle.

3 Financial appraisal

3.1 There should be minimal financial impact on the Council.

4 Legal implications

4.1 Caselaw has established that it is lawful for the Council to have Guidance that all new hackney carriage licences may only be granted to wheelchair accessible vehicles as held in *R v Manchester City Council, ex p. Reid and McHugh* [1989] 88 LGR 180, and that it is lawful for the Council to refuse to grant (new or on renewal) hackney carriage licences as held in *R v Lincoln City Council, ex.p King and Cook* and *R v Luton Borough Council ex.p Mirza* [xxx] unreported.

4.2 The Legal Section considered this Report on 4 December 2020 (IKEN-9724-MW).

5 Equality analysis

5.1 Equality and Fairness Analysis report has been produced and is included at Appendix 1.

6 Environmental sustainability implications

6.1 There are no sustainability and/or carbon reduction implications associated with this report.

7 Appendices

7.1 Appendix 1 - Equality and Fairness Analysis report.

8 Background papers

8.1 None.