

**REPORT TO:** LICENSING COMMITTEE

**DATE:** 20 NOVEMBER 2018

**TITLE:** PRIVATE HIRE OPERATOR CONDITIONS AND THE PROVISION OF ADAPTED VEHICLES

**LEAD OFFICER:** MICHAEL PITT, ENVIRONMENT AND LICENSING MANAGER (01279) 446114

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**RECOMMENDED that:**

- A** The Committee approves a consultation on draft revised Operator conditions as set out at Appendix B and that a future meeting of the Committee receive a report advising of the outcome of consultation.

**BACKGROUND**

1. The Council regulates the provision of 'Private Hire' vehicles under the provisions Local Government (Miscellaneous Provisions) Act 1976. These provisions provide for the licensing of drivers, vehicles and operators.
2. A private hire vehicle may only be may only be despatched to a customer by a private hire 'operator'. A private hire operator is a person who holds a licence granted under the Act. To 'operate' means in the course of business to make provision for the invitation or acceptance of bookings for private hire vehicles.
3. The Act allows a council to attach to the grant of a licence, such conditions as they may consider reasonably necessary. Conditions attached to Operator licenses were last fully reviewed by the Licensing Committee in July 2013.

**ISSUES/PROPOSALS**

**Wheelchair Accessible Vehicles (WAVs)**

4. The Council currently licenses some 313 vehicles of which 63 are Hackney Carriages and are 250 private hire vehicles. Hackney Carriages licensed by the Council are purpose built vehicles capable of taking a person when seated in some, but not all wheelchairs. None of the existing 250 licensed private hire vehicles are constructed or adapted to serve the needs of customers when seated in a wheelchair or mobility scooter. The existing private hire operator conditions make no provision for vehicles adapted for people with disabilities, so an opportunity exists to better meet their needs.

5. Members of the Licensing Committee will be aware that all licensed Hackney Carriage vehicles are designated by the Council as being wheelchair accessible for the purposes of Section 167 of the Equality Act 2010. No private hire vehicles are currently designated by the Council as being accessible in accordance with these provisions.
6. Hackney Carriages have been designated as being suitable for transporting an occupied 'reference wheelchair' in accordance with the relevant formal guidance which in turn reflects the position under the Equality Act 2010. However wheelchairs and mobility scooters come in various types and sizes, and some users cannot be properly accommodated in Hackney Carriages.
7. The Ministerial Task and Finish Group chaired by Professor Mohammed Abdel-Haq recently published its report Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system (the Abdel-Haq Report). This sets out a number of recommendations to government and licensing authorities. Licensing authorities with few WAVs in the licensed fleet are urged to consider whether there is unmet demand for WAVs and how they might use their existing powers to address this. This includes whether they should ensure that a minimum number of the licensed fleet are WAVs. There is no safe provision in the local fleet for wheelchairs larger than those that will fit properly in a Hackney Carriage. Available evidence suggests that lack provision limits the mobility of some residents who are dependent on these wheelchairs.
8. The Council could require licensed operators to ensure that adequate provision within their fleets is made to carry people seated in a wheelchair and other persons with mobility issues. This might be achieved by attaching a condition requiring that a percentage of the operator's fleet be built or adapted to carry people seated in a wheelchair. Such vehicles are commonly fitted with ramps or tail-lifts to provide safe access to the vehicle, and a level floor surface and restraint systems to enable the customer and wheelchair to be properly restrained in transit, but being specially built or adapted, will inevitably be more expensive than an equivalent standard vehicle. It may be disproportionately burdensome to require such vehicles of smaller operators, whereas arguably the costs would be more marginal distributed over a large fleet.

### **Driver and Passenger Safety**

9. A number of attacks and assaults on licensed drivers have taken place recently. Investigating such attacks is a police matter but the licensing team is aware of heightened concerns among drivers.
10. Potential measures to enhance driver safety include requiring the use of Closed Circuit Television (CCTV) in licensed vehicles. The Abdel-Haq report recommends that for consistency and completeness Central Government should establish use of CCTV in national minimum standards: however it urges local authorities to use their existing powers to require CCTV in the meantime.
11. Office research shows that CCTV in licensed vehicles has a number of benefits, the most important being enhanced safety for drivers and passengers,

particularly for children and vulnerable people. CCTV also assists in promoting confidence and acts as a deterrent to crime and disorder. Making CCTV mandatory might be resisted by some members of the trade and the travelling public, because of concerns about civil liberties. This is an important consideration.

12. However the Information Commissioners Office (ICO) has produced a code of practice *In the Picture; A Data Protection Code of Practice for Surveillance Cameras and Personal Information* (updated 2018); and the Home Office has produced a code of practice *Surveillance Cameras Code of Practice* June 2013 which was presented to Parliament in accordance with Section 30 (1) (a) of the Protection of Freedoms Act 2012. Observance of these codes should ensure good practice in the capture, storage, use and disposal of information by the data controller, so ensuring balance between civil liberties and safety risks.
13. Some private hire vehicles licensed by the Council are currently fitted by proprietors with CCTV equipment. Because this is not a licensing requirement, how this is used is the responsibility of the proprietor. By mandating use in accord with the appropriate codes of practice, the Council could ensure a consistent approach reflecting the proper balance of safety and civil liberties interests.
14. Any condition on the use of CCTV would be attached to the vehicle and operator licenses and would be accompanied by separate guidance developed by the Council.
15. Private hire drivers have expressed a concern that they have not always been given details of the destination of a booked journey by the operator before commencement of the journey. Some drivers have suggested that their safety would be enhanced if they were to be provided with the destination. Current licence conditions do not specifically require journey destinations to be passed to the driver. This measure might be introduced by licensed operators at no cost and has been included in the proposed new conditions.

### **Facilities for Electronic Payment**

16. Electronic payment for goods and services is now well established with over half of all payments being made electronically. Some operators now require that electronic methods of payment be made available to customers while some do not. This results in inconsistency and a risk of confusion and difficulties for some customers, particularly those with business accounts. The Council could require operators to only use vehicles which offer electronic payment facilities. It would be appropriate to include this condition in the driver licencing conditions.

### **Proposals**

17. The proposed revised Operator conditions are set out in Appendix B. As drafted they contain a requirement for larger operators to make provision, throughout the time they are operating, for the transport of customers while seated in a wheelchair. This is set out in Table 1 of Appendix B.

18. The proposed revised Operator conditions also require vehicles operated to be fitted with CCTV equipment, that private hire drivers be informed of the destination booked when journeys are allocated, and that all vehicles operated have provision for electronic payment of fares.
19. It is proposed that the Council consult operators and make available for public comment the proposed revised operator conditions as set out in Appendix B. A further report would be presented to the Committee on the responses to the consultation.

## **IMPLICATIONS**

### **Place (Includes Sustainability)**

As contained within the report.

**Author: Michael Pitt, Environment and Licensing Manager on behalf of Graeme Bloomer, Head of Place**

### **Finance (Includes ICT)**

None specific.

**Author: Simon Freeman, Head of Finance**

### **Housing**

None specific.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

Measures proposed to enhance driver and passenger safety if put into effect are expected to reduce the likelihood of crime and antisocial behaviour, while measures proposed to improve the capacity of the licensed fleet to carry wheelchair users safely if put into effect are expected to lower barriers to mobility in the community to the benefit of people affected.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (Includes HR)**

The CCTV codes of guidance are out of date and do not reflect the current law, this is acknowledged by the ICO. The Council will need to ensure that they have taken into account and determined whether the public interest in mandating that CCTV should be in all private hire vehicles is properly balanced with the rights and fundamental freedoms of individuals. The General Data Protection Regulations 279/2016 and Data Protection Act 2018 allow exemptions if the processing is necessary for the prevention of crime, for the protection of the public and in the exercise of a public task. The Council is responsible for the licensing of private hire drivers and operators: in order to ensure that the persons so licenced are fit and proper persons to minimise the risk of crime and disorder and enhance public safety it would be in the public interest to recommend that CCTV be part of the conditions.

**Author: Amanda Julian, Legal Services Manager on behalf of Interim Head of Governance**

## **Appendices**

Appendix A – Existing Private Hire Operator Conditions

Appendix B – Proposed Private Hire Operator Conditions

## **Background Papers**

Taxi and Private Hire Vehicle Licensing Steps towards a safer and more robust system published by the Task and Finish Group on Taxi and Private Hire Vehicle Licensing.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/745516/taxi-and-phv-working-group-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745516/taxi-and-phv-working-group-report.pdf)

ICO In the Picture; A Code of Practice for Surveillance Cameras and Person Information. <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

Home Office, Surveillance Camera Code of Practice 2013

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/282774/SurveillanceCameraCodePractice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282774/SurveillanceCameraCodePractice.pdf)

## **Glossary of terms/abbreviations used**

CCTV – Closed Circuit Television

ICO – Information Commissioners Office

WAV – Wheelchair Accessible Vehicle