

REPORT TO: LICENSING COMMITTEE

DATE: 19 NOVEMBER 2019

TITLE: ELECTRONIC PAYMENT OF FARES IN LICENSED VEHICLES

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RECOMMENDED that:

- A** The Committee approve consultation with the Hackney Carriage trade and travelling public the proposal that the Council require that a suitable form of electronic fare payment be available for all journeys.
- B** Subject to A, authority to approve the details of consultation be delegated to the Environment and Licensing Manager, in consultation with the Chair of the Licensing Committee.

BACKGROUND

1. The Council licenses Hackney Carriage Vehicles under the provisions of the Town Police Clauses Act 1847 and The Local Government (Miscellaneous Provisions) Act 1976, and licenses Private Hire vehicles under provisions in the latter. Conditions may be attached to Hackney Carriage vehicle licenses, and to the licences of Private Hire vehicles operators and drivers. Bye laws can be made to regulate the conduct of Hackney Carriage drivers. The primary purpose of both licensing regimes is public safety.
2. Private Hire vehicles may only carry passengers who have booked their journey through an Operator. A Hackney Carriage need have no Operator and can “ply for hire” (be hailed in the street) and “wait on a Hackney Carriage stand” (use a taxi rank). There are currently three taxi ranks in Harlow; the Playhouse, Terminus Street and Harlow Town railway station.
3. Rank etiquette requires that the vehicle at the front of the rank takes the next available fare. When a Hackney Carriage driver is approached at a rank, the driver is to take that person to the destination requested.

4. Electronic payment for everyday purchases is increasingly common and many travellers find it more convenient than cash. Further, it might be supposed that some potential customers of Hackney Carriage or Private Hire services, happening to be without cash at a time when they wished to make a journey, might perceive that they could not pay electronically and therefore might choose to walk or use some other option that might be less safe than a licensed vehicle. There is a case that this could make such potential customers more vulnerable than they need be.
5. Officers have, at the request of the Committee, considered whether there is sufficient case to ensure that electronic payment can be used for all journeys in licensed vehicles and some of the practical issues that might arise in that case.

ISSUES / PROPOSALS

6. Officers have sought information from licensing authorities elsewhere that have made electronic payment a licensing requirement. Transport for London (TfL) have, after considerable work, set out detailed requirements. It appears that outside London, only Liverpool, Reading and Guilford have made a requirement of this kind.
7. Officers have taken some soundings within the licensed trades. It appears that approximately a third of the Hackney Carriage trade accept fares electronically, and of those that do not, many prefer not to do and have some concerns about the additional cost of equipment and processing fees that might be charged. At times accommodating a passenger without cash at a rank can be confusing and cause some disarray, as that passenger would not always be able to take the first Hackney Carriage waiting at the rank and would have to ask each until they found one willing to take them. It might arise that there were no Hackney Carriages at a rank who would take electronic payment, in which case there is a potential concern that the passenger would walk or find another less safe way of completing their journey.
8. In the case of Private Hire journeys, the contract to travel is made in advance with the Operator and the passenger in has wider choice. If the operator selected first is not willing to provide a vehicle equipped to take fares electronically, another operator can be chosen. In many cases operators are able to accept cash less fares by telephone at the point of booking, even when the driver is not equipped to take cash less fares. While operators generally appear positive about a requirement on drivers to take fares electronically, anecdotally many drivers are more reluctant. This may be due in one case to the understanding that it might benefit business while enforcement of availability would become a Council responsibility and, on the other, to concern about equipment and transaction costs.

9. Enforcement of a licensing requirement for electronic payment raises a number of issues. In the case of Hackney Carriages, conditions may be placed on the vehicle licence, but drivers' licences may have no conditions. Outside London, while it might be reasonably straightforward to require that a cashless device be present, requiring the driver to use it might be more challenging. Making replacement bylaws which are to be approved by a minister is less straightforward and more costly than applying conditions which would lie within Council control. Arguably a vehicle condition would require any device to be fixed safely within to the vehicle, which may increase the costs involved, exclude the simplest and cheapest systems, and reduce flexibility. If proprietors are required to provide equipment, proprietors of multiple vehicles potentially could face considerable costs.
10. Whilst it might appear straightforward to adopt wholesale the rules and requirements introduced by TfL, the Council should be aware that licensing in London has a different basis in law than outside London. Furthermore, TfL have done considerable research and understand the reasons behind their requirements. Adopting them wholesale without research is likely to lead to unintended consequences and possibly costs. It is the case, for example, that TfL require the capability to issue printed receipts. This restricts the type of device that may be used and significantly increases cost, possibly without a strong justification in the Harlow market.
11. If payment devices were to become a vehicle requirement, they would become part of the compliance testing requirements and this would place an additional burden on the test station, of which they were not aware when tendering for the contract. Whilst the Council would wish to be sure that transactions were safe and low risk, it would be prudent to ensure that any testing requirements were as straightforward as possible.
12. If payment devices were to become driver licensing requirement, checking compliance would become a new burden for the Licensing team, which has limited staff resources.
13. Any condition imposed is subject to appeal by licensees, and whilst the Council will defend its position if necessary, so the Council would wish to be sure that its proposals were no more contentious than necessary, and that it could demonstrate that conditions were reasonably necessary.
14. Considering the issues outlined above, it appears that there is a reasonable public safety case for ensuring electronic payment can be taken universally by the Hackney Carriage trade in Harlow, and that the case in respect of Private Hire trade is less easy to defend. Further, there is a strong case for consulting the trade formally before imposing any requirements to ensure that any contention is minimised by avoiding unnecessary costs and operational

difficulties which should help the trade in implementing any proposals, and minimise the risk of any challenge.

15. Following consultation, a further report will be presented to the Committee setting out the outcome of consultation with recommendations regarding the way forward with electronic fare payment. Consideration of a requirement for electronic fare payment in the Private Hire Trade will therefore be deferred pending the outcome of the consultation.

IMPLICATIONS

Environment and Planning (includes Sustainability)

As set out in the report.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT)

None specific.

Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive

Housing

None specific.

Author: Andrew Murray, Head of Housing

Community Wellbeing (includes Equalities and Social Inclusion)

Reducing barriers to safe modes of transport where practicable will assist community safety objectives.

Author: Jane Greer, Head of Community Wellbeing

Governance (includes HR)

The report only commits the council to consultation at this stage therefore there are no direct legal implications at this stage. The results of the consultation will be summarised in a further report back to Cabinet.

The report recommends that Cabinet instructs officers to conduct a public consultation on proposals to introduce cashless payments in Hackney Carriages. The consultation must be undertaken when proposals are at a formative stage, it should provide sufficient reasons to enable the consultees to be able to consider the proposal and formulate a response. There will need to be sufficient time to for considered responses to be formed, and the outcome of it must be conscientiously taken into account when the ultimate decision is taken.

Similarly due regard must be had to the impact a proposal may have on persons with protected characteristics under the Equality Act 2010, if any.

Author: Amanda Julian, Legal Services Manager, on the behalf of Simon Hill, Head of Governance

Glossary of terms/abbreviations used

TfL – Transport for London