

Consideration to introduce conditions to restrict the seating capacity of wheelchair accessible Hackney Carriages to the number of rear seats behind the safety partition only and to reflect numbers where a wheelchair user is carried.

Licensing Committee

Date: 25th July 2019

Author: Kathryn Ashton – Licensing Manager

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 The purpose of this report is to propose specific conditions in respect of restricting the seating capacity of wheelchair accessible Hackney Carriages to the number of seats beyond the safety partition in the rear of the vehicle and where a wheelchair is being carried within the vehicle.

2. Recommendations

That The Committee:

- 2.1 Agree to attaching conditions to every licence issued to a hackney carriage vehicle which has a safety partition.
- 2.2 Agree that the wording of such conditions shall be delegated to the Licensing Manager.
- 2.3 Agree that such conditions shall have the effect of:
- 2.3.1 Prohibiting passengers from being conveyed in seats in front of the safety partition; and
- 2.3.2 Imposing limits on the number of passengers conveyed where one or more passengers is a wheelchair user.

3. Background and Detail

- 3.1 In May 1989 the Council resolved that any further Hackney Carriage licences would only be issued “for purpose-built, wheelchair-accessible Hackney Carriages which comply with the conditions of fitness of the Metropolitan Police Public Carriage Office which are currently in force.” In practice, this restricts vehicles to the traditional London-style cab. However, holders of those licences which were first issued prior to May 1989 were able to continue with their entitlement to licence a saloon car as ‘grandfather rights’.
- 3.2 Following a decision taken by Licensing Committee to delimit the number of Hackney Carriage licences from 1st February 2006, a revised specification for Hackney Carriages was agreed, allowing wheelchair accessible vehicles other than those that met the Metropolitan Conditions of fitness to be licensed as

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Hackney Carriages in Swindon. Prior to this change the London style cab and the Metro cab were the only vehicles that were licensed. In these vehicles there was no front seat as this space was used for luggage so the vehicle was licensed for the seating capacity in the rear beyond the safety partition.

- 3.3 It was felt that this was too restrictive and would not encourage new entrants to the trade. In recent years the alternative vehicle market has grown and can now provide fully wheelchair-accessible vehicles which, although they do not fully meet the Metropolitan Conditions of Fitness in every respect, are nevertheless suitable for licensing as Hackney Carriages. It was therefore recommended that the revised specification be adopted from the 1st February 2006.
- 3.4 In 2006 the E7 was the only alternative vehicle that was presented for licensing as a hackney carriage vehicle and also had a partition separating passengers from the driver. This also was unsuitable to carry a passenger in the front of the vehicle not only for safety reasons but also the bulk head had to be adjusted to enable introduction of the partition. More recently other purpose built vehicles with a partition have been licensed with the delegated authority of the Licensing Manager
- 3.5 Officers are of the opinion the overarching principle behind the licensing of hackney carriage vehicles is not only one of public safety, but also of driver safety. Based on this overarching principle the Licensing Authority has continued to restrict the licence to fare paying passengers sitting behind the partition.
- 3.6 This practice has been in place as an implied restriction since 1989 but for clarity it is now proposed that it become a specific clear condition attached to each licence.
- 3.7 With regards to proposed condition at paragraph 2.3.2 of this Report, it is to be clearly expressed on the licence that where a wheelchair is carried then the plate capacity is reduced accordingly dependent upon the size of the wheelchair and available seats left. This would still exclude the use of the front seat.

4.0 Options

- 4.1 The proposed condition 1 and 2 be agreed and to be attached to every licensed hackney carriage vehicle with immediate effect.
- 4.2 To leave the current conditions without any amendment to incorporate the proposed conditions.

5.0 Consultation with the trade

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- 5.1 There has been no separate formal consultation by the Licensing office directly with drivers. However through the Taxi forum meetings the Swindon Hackney drivers Association expressed the opinion that the restriction should be maintained for safety reasons.
- 5.2 The Secretary of the Swindon Hackney Drivers Association has advised that this issue of using the front seat was discussed earlier this year at one of their meetings. The consensus was that the restriction of not using the front seat should remain.
- 5.3 As of this date there are 158 Hackney Carriage Drivers and 100 Hackney Carriage Vehicles licensed by Swindon Borough Council. Of the hackney vehicles there are 43 saloon vehicles on 'grandfather rights' (which do not have a partition).

6. Conclusion

It is intended that if Members agree to the Licensing Managers request that the conditions are attached with immediate effect.

7. Implications, Diversity Impact Assessment and Risk Management

A DIA is available on request

8 Financial and Procurement Implications

- 8.1 There are no direct financial implications arising from the report.
- 8.2 The inclusion of the conditions would not impose additional costs nor generate any income for the Council.
- 8.3 There are no costs to the Council in terms of officer time in amending the conditions.

9 Legal and Human Rights Implications

- 9.1 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy.

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Common sense has to be used, in balancing each of these against the other.

- 9.2 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder) This report relates to the requirements of licensing legislation.

10.0 Diversity Impact Assessment

A DIA is available on request.

11.0 Consultees

The Chief Legal Officer (Monitoring Officer) is consulted in respect of all reports.