



Committee and date
Strategic Licensing Committee
15 December 2010
9.30am

Item
10
Public

**Local Government (Miscellaneous Provisions) Act 1976
Town Police Clauses Act 1847**

Policy review - Wheelchair Accessible Hackney Carriages.

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Report

To recommend to the Strategic Licensing Committee a new policy regarding requirements for wheelchair Accessible Hackney Carriages.

Recommendations

- A. That from the 1st April 2011 all Hackney Carriages must be of a wheelchair accessible design, when first licensed by Shropshire Council.
- B. Existing non wheelchair accessible vehicles will continue to be licensed until the end of their operational life or such time as the vehicle ceases to be licensed by Shropshire Council.

Report

Background

1. Currently Shropshire Council operates five zones for the purpose of licensing Hackney Carriages, based on the previous Borough and District Council Boundaries. The Implementation Executive at its meeting on {add date} approved the licence conditions for Hackney Carriages. These conditions did bring a level of consistency across Shropshire, however a number of fundamental differences remain between zones.
2. One of the principal differences is the requirement in respect of wheelchair accessibility, with all hackney carriages in Zone 4(Shrewsbury and Atcham) required to be wheelchair accessible from 2012. No requirement for wheelchair accessibility exists in the other zones.

What is a wheelchair accessible taxi?

3. The term 'accessible taxi' can mean different things to different people. For the purpose of the policy, the following terms are used.

Saloon Car Vehicles

4. These vehicles are conventional cars and are not accessible to wheelchair users. They meet the needs of many people, including those with an ambulatory disability. As well as saloons, they may be hatchbacks or estate cars. They are currently licensed as taxis by Shropshire Council but would not be deemed as a wheelchair accessible vehicle.

Wheelchair Accessible Vehicles

5. These can be purpose built vehicles or converted multi purpose vehicles. Not all these vehicles in reality would meet the interim standard for a wheelchair accessible taxi but can generally accommodate a person in their wheelchair.

Why the need for a review of policy.

6. The Strategic Licensing Committee at its meeting on {add date} agreed to propose to Council the removal of the zones for Hackney Carriages with effect from 1st April 2011. In removing zones, common license conditions are required across Shropshire and the committee established a Task and Finish Group to develop these common conditions.
7. Transport affects everyone and is essential for a strong economy and society, providing access to jobs, services and leisure activities. Taxi and Private Hire Vehicles (PHVs) are a vital link in the accessible transport chain and although disabled people are reported to travel a third less often than the public in general, they use taxis and PHVs on average 67% more.
8. Over the last ten years, there have been major improvements in the accessibility of the transport network because of the Disability Discrimination Act 1995.
9. The powers in the Disability Discrimination Act (to be replaced by the Equality Act 2010 on 1st April 2011) allow regulation to be made requiring all new land-based public transport vehicles, including taxis, to be accessible to disabled people including those who need to remain in their wheelchair. Whilst 'end' dates have been set in regulations by which time all trains, buses and coaches must be accessible, the requirement in respect of hackney carriages has yet to be set. The regulation making powers do not apply to private hire vehicles.
10. In 2003, the Government stated that it intended to set standards for wheelchair accessible taxis and to introduce regulations that would apply to mainly urban authority areas. Since then however, the Department for Transport has received a number of representations making the case for a broader range of disabled people's needs to be met in any regulations. As this is a complex matter regulations have not been made.

11. In 2008, the Department for Transport consulted on improving access to taxis, but no regulation or guidance has emerged from that consultation. The government has published an interim standard for wheelchair accessible taxis and this is available on the Department for Transport website.
12. The Department for Transport continues to explore amendments to section 16 of the 1985 Transport Act contained within the Equality Act 2010 and it is suggested that should regulation be made it will require councils to move to a position where between 30% and 35% of the fleet is wheelchair accessible.
13. The hackney carriage fleet in Shropshire is around 147 vehicles. Of the 147 vehicles, 38 are wheelchair accessible vehicles. Thus in total around 26% of the fleet is wheelchair accessible. The majority of these vehicles however are currently only licensed to operate in the Shrewsbury and Atcham area.

Equalities.

14. Currently the Disability Discrimination Act 1995 remains extant and relevant. Members are referred to section 49A of the Disability Discrimination Act 1995 (attached at Annex B). It will be noted in particular that public authorities, when carrying out their functions, must have due regard to the need to take into account disabled people's disabilities, even where that involves treating disabled people more favourably.
15. Hackney Carriages are to be treated differently from Private Hire Vehicles. This is emphasised in the Department for Transport best practice (attached at Annex C). Members are referred to Paragraphs 13 to 25 under the heading "Accessibility"; in particular paragraph 14 states the different accessibility considerations that apply between taxis and Private Hire Vehicles. It is explained that, "It is important that a disabled person should be able to hire a taxi on the spot with the minimum delay or inconvenience, and having accessible taxis available helps to make that possible.
16. The Courts have considered what steps a public body must take to comply with a "due regard" duty. In short, it is a "requirement that a process of consideration be undertaken at the time when decisions which could have an impact are being taken". This will involve looking for opportunities to promote equality as well as negative or adverse impacts that can be removed or mitigated. If any negative or adverse impacts amount to unlawful discrimination, they must be removed.
17. In April 2011 the Equalities Act comes into force and this requires public authorities, in the exercise of their functions, to have due regard to the need to

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act;
 - Advance equality of opportunity and foster good relations
18. An Equalities Impact Assessment has been undertaken and the main implications were detailed in papers considered by the Task and Finish Group. The Impact assessment will be available at the meeting.

Consultation.

19. The Licensing Department consulted with the hackney carriage/private hire trade and access and disability groups on two separate occasions in relation to amending policies for licensed drivers and vehicles.
20. Initial consultation took place between 05 October 2009 and 05 January 2010. This consultation asked for comments on all aspects of the policy and the diversity impact assessment. A further consultation took place between 20 August and 15 November 2010. This second consultation asked specific questions on whether there should be a requirement for Hackney Carriages to be wheelchair accessible. The consultation is shown in Annex A.
21. Five options were given for consideration:
- Option One – To maintain status quo (A requirement for wheelchair accessible taxis in Zone 4 (previous Shrewsbury and Atcham area) only, zones must remain allowing different conditions for taxis across Shropshire.
 - Option Two – Requirement for all newly registered taxi to be wheelchair accessible.
 - Option Three – Requirement for all taxis to be wheelchair accessible from a set date.
 - Option Four – Use of financial incentives.
 - Option Five – To remove entirely any requirement for taxis to be wheelchair accessible.
22. During the initial consultation, 26 responses were made in relation to wheelchair access. This amounted to; 35 drivers, Members of the Central Area Licensing Committee and drivers from the central area taxi forum supporting the retention of a wheelchair access policy. 33 drivers and the north area taxi forum considered there should not be a requirement for any vehicles to be wheelchair accessible.
23. There were 11 representations made during the second consultation. Summarised as follows:
- A petition signed by 55 drivers stating that they wished to remove entirely any requirement for taxis to be wheelchair accessible (option five).
 - A letter submitted by 34 drivers stating that the Council should maintain status quo (option One).

- National Private Hire Association and Oswestry Taxi Drivers' Association stated that a sensible approach would be to await the Department of Transport consultation on fleet percentages before making a final decision.
 - Three representations in support for all new vehicles to be wheelchair accessible (option two).
 - One representation stating the fleet as it is at present is about right.
 - One representation stating that the Council should have a mixed fleet.
 - One representation stating that the Council should let market forces determine how many vehicles should be wheelchair accessible.
24. A member who is one of the Council's representatives on the Access Group also made representation and he said that vehicles that are wheelchair accessible are not always suitable for people with different degrees of disability. Often these people find it difficult to climb into a vehicle of this type.

Legal Opinion.

25. Officers have taken Counsel's advice on the proposed abolition of the taxi zones in the council's area and the matters to be considered regarding this in relation to wheelchair accessibility and hackney carriages. Counsel opinion is contained in a separate exempt report. This opinion carries with it legal professional privilege and so should be treated as confidential information.

Conclusion.

26. Following detailed consideration by the Task and Finish group of the different options, impact, representations received and legal advice given the group proposed that that the Strategic Licensing Committee be recommended to approve a new policy on wheel chair accessibility for Hackney Carriages for the whole of the Council area and that from 1 April 2011 all new Hackney Carriages will be wheel chair accessible and that all currently licensed vehicles continue to be eligible to be licensed until their replacement.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Existing Hackney Carriage/Private Hire Policies.
 Report & Minutes of meetings of Task and Finish Group
 Guidance Notes

Human Rights Act Appraisal

The Committee is required to consider the consequences any recommendation on the applicant's human rights.

Environmental Appraisal

Not applicable.

Risk Management Appraisal

There is a risk that introducing this policy will reduce the number of hackney carriages, as it will restrict new entrants to the market due to cost. Committee will need to be mindful of this potential unintended consequence was to arise and review the policy in such circumstances.

Should the Government issue guidance under the Equalities Act 2010 in respect of Wheelchair Accessible Vehicles, Committee should review the policy in respect of that guidance.

Community / Consultations Appraisal

Two consultation exercises have been undertaken in respect of this policy.

Cabinet Member

Cecilia Motley

Local Member

N/A

Appendices

Annex A – Consultation paper on Wheelchair Accessible Vehicles.

Annex B – Section 49A of the Disability Discrimination Act 1995

Annex C – Department for Transport. Taxi and Private Hire Vehicle Licensing:

Best Practice (March 2010).