

EXTRACT FROM LICENSING COMMITTEE REPORT 12/09/11

particular proposals to allow those consulted to give intelligent consideration and intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken."

8.3 Further legal implications are set out within the body of the report.

9.0 Risk Management

9.1 Full consideration of any consultation responses received will mitigate any risk of challenge to any subsequent decision.

10.0 Background and Options

10.1 As Members are aware, at the present time different hackney carriage vehicle conditions are in operation in each of the three hackney carriage zones. The existing conditions are attached as Appendices A, B and C for information. On 7th March 2011 the Licensing Committee resolved that officers be requested to produce a set of harmonised conditions based on the existing private hire vehicle conditions. Attached as Appendix D is a set of draft hackney carriage vehicle conditions which are intended to be applicable in each of the three hackney carriage zones. Members will note that certain of the draft conditions currently refer back to specific paragraphs of this report; in these cases Members are asked to consider the information below and to determine the content of the draft conditions so that the conditions may be subject to consultation.

10.2 Vehicle specification

10.2.1 As set out above, the Committee requested that a set of conditions be drafted on the basis of the existing specification within the Private Hire Vehicle conditions. With the exception of conditions 1.3 and 1.4, the conditions within paragraph 1 of Appendix D follow the vehicle specification with the private hire vehicle conditions.

10.2.2 Paragraphs 26 to 29 of the Best Practice Guidance deals with the specification of vehicles. Paragraph 27 states: "Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible...." Paragraph 28 continues: "It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicles or prescribes only one type or a small number of types of vehicle..."

10.2.3 Condition 1.3 – Wheelchair accessibility

As Members will note, condition 3 of the zone 1 (Congleton zone) requires that "the minimum standard for all new licensed vehicle licences issued shall be: (a) a purpose built wheelchair accessible four door passenger saloon/estate or hatchback with minimum seating space of 16" per person."

The conditions within zone 2 (Crewe) sets out the specification for wheelchair accessible vehicles; it is a policy requirement within the Crewe zone that new hackney carriages are wheelchair accessible.

The conditions which relate to zone 3 (Macclesfield) include requirements for wheelchair accessible vehicles, but do not require that all new vehicle licences will only be issued to wheelchair accessible vehicles.

As Members may be aware, section 32 of the Disability Discrimination Act provides the Secretary of State for Transport the power to make taxi accessibility regulations covering the design and construction of new taxis. The introduction of accessibility regulations has been under consideration for a number of years, however in October 2009 the Minister for State for Transport announced that the Department would be undertaking demonstrations in three licensing authority areas to "research the needs of disabled people when using taxis and private hire vehicles, how to tailor the fleet to demand and use patterns and how driver training can assist disabled passengers. The demonstration schemes will provide the basis on which the Department will be able to issue comprehensive guidance to licensing authorities to assist them with improving the availability of taxis and private hire vehicles for disabled passengers."

Section 161 of the Equality Act 2010 qualifies section 16 of the Transport Act 1985 so that licensing authorities may not refuse a hackney carriage application on the basis of numbers if that vehicle fulfils prescribed requirements in relation to wheelchair accessibility and if the number of wheelchair accessible vehicles in the district is less than the proportion prescribed by the Secretary of State. For this section to have effect regulations would need to be made specifying the dimensions of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within the provisions. These regulations have yet to be made.

Paragraph 14 of the Best Practice Guidance states:

Different accessibility considerations apply between taxis and PHVs. Taxis can be hired on the spot, in the street or at a rank, by the customer dealing directly with a driver. PHVs can only be booked through an operator. 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. For PHVs, it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet.

It may therefore be argued that a policy of requiring all new hackney carriage vehicles to be wheelchair accessible would be advantageous for wheelchair users within the Borough. However, counter-arguments may include the suggestion that certain passengers (for example the elderly) find non-wheelchair accessible saloon vehicles easier to get in and out of. It should also be noted that there would be cost implications for members of the trade

when purchasing new vehicles if a requirement for wheelchair accessible vehicles were to be imposed in zone 3.

On 7th March 2011, Members of the Committee indicated a preferred option in relation to the introduction of a condition about wheelchair accessibility; however, the options that are option to members in relation to the proposed condition 1.3, subject to consultation, are as follows:

- (a) to introduce a condition which requires that all vehicles presented for a new hackney carriage vehicle licence are purpose-built wheelchair accessible vehicles. This would mean that the current position in Congleton and Crewe would continue and that, if implemented following consultation, any new hackney carriage vehicle in the Macclesfield zone would also have to be wheelchair accessible. It is suggested that existing hackney carriage vehicles which are not wheelchair accessible could continue to be used for the duration of their existence as a licensed vehicle.
- (b) not to include a condition requiring all new hackney carriage vehicles to be wheelchair accessible. If implemented following consultation this would continue the existing position within the Macclesfield zone but would fundamentally alter the position in the Congleton and Crewe zones. Any such decision could potentially have an impact on the number of licensed vehicles within these zones. In particular it should be highlighted that whilst the number of hackney carriages which may be licensed within the Congleton zone is 42, the number of vehicle licensed currently issued is 38 (it is understood that the fact that the limit has not been reached is due to the requirement that new hackney carriages are wheelchair accessible).
- (c) to preserve the current position, i.e. a requirement for wheelchair accessible vehicles in the Congleton and Crewe zones but not in the Macclesfield zone. Members may wish to consider this option in the light of the fact that further guidance is due from the Department of Transport on accessibility requirements, however this approach could be open to criticism on the basis that it would not produce a 'level playing field' across the Borough. In response to this point, it should be highlighted that whilst the differing policies about quantity restrictions remain in place the issues within the zones do differ and can be distinguished.

10.2.4 Condition 1.4

The draft condition states: "The vehicle shall be a manufacturer's right hand drive model with a minimum of four wheels and a minimum of four passenger seats and shall be finished in a production colour of the manufacturer for the model."

This condition varies from the content of the Private Hire Vehicle specification by the inclusion of a requirement that the vehicle shall have a minimum of four passenger seats. This condition follows the requirements within the existing Crewe conditions and is suggested due to the difference between the