
Meeting: Licensing Committee
Date: 28 September 2011
Subject: Hackney Carriages - Review of Policy with regard to Wheelchair accessibility

Report of: Gary Alderson – Director of Sustainable Communities

Summary: This report seeks a decision on whether Members wish to change the current policy of requiring all hackney carriages to be wheelchair accessible.

Contact Officer: Margaret James, Licensing Enforcement Officer

Public/Exempt: Public

Wards Affected: All

Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Supporting and Caring for an ageing population – provision of safe public transport supports independent living.

Financial:

Fees are payable for hackney carriage and private hire licences. The fees being charged represent the cost of the Council producing the licence.

Legal:

Local Government (Miscellaneous Provisions) Act 1976.
Town Police Clauses Act 1847.
Equalities Act 2010 – Taxis and Private Hire Vehicles.

Risk Management:

Ensuring that hackney carriage and private hire vehicles operating in Central Bedfordshire are safe and properly regulated.

Staffing (including Trades Unions):

There are no staffing implications.

Equalities/Human Rights:

The Council has a legal duty to proactively promote race, gender and disability equality and to tackle discrimination experienced by other vulnerable groups. In order to ensure the personal safety of all vulnerable groups wishing to use licensed vehicles, conditions attached to licences ensure that this duty is met.

Community Safety:

Contributes to a safer public transport system and a safer night time economy. The Council has a statutory duty under Section 17 of the Crime and Disorder Act to do all that it reasonably can to reduce crime and disorder in its area. The provision of sufficient numbers of taxis is a key component of reducing crime and disorder problems linked to the night time economy and licensed premises. In addition, it is essential to ensure that the public, and particularly more vulnerable members of the community, are not left without safe transport options which may lead them to take decisions which put their safety at risk.

Sustainability:

By regulating this service area we can ensure that those businesses that are compliant can be supported and resources can be focused at those business that will not comply.

RECOMMENDATION(S):

that the Committee considers which of the following 2 options it wishes to adopt:

(a) retain the current requirement for all hackney carriages to be wheelchair accessible and revisit the matter when the Government makes further recommendations.

or

(b) permit a percentage of hackney carriages to be saloon type non-wheelchair accessible vehicles (following the adoption of suitable vehicle conditions) and adopt a fair procedure to ensure that the percentage is met.

Background

1. The Council is the Licensing Authority for hackney carriage and private hire drivers, vehicles and operators and is responsible for providing a licensed service to the community that is safe and accessible.
2. The hackney carriage and private hire trade have a right to expect a fair and reasonable licensing regime.
3. Before a local authority can make a decision on policies and conditions affecting the hackney carriage and private hire trade, they must consider the views of all interested parties.

4. Under the Disability Discrimination Act, it is unlawful for taxi drivers to discriminate against disabled people and they have an obligation to provide a proper service.
5. Disabled people can take civil action under the Disability Discrimination Act against taxi drivers who discriminate against them.
6. In 2003, the Department for Transport announced an intention to set standards for wheelchair accessible taxis and to introduce regulations applying to local authorities that would include the possibility of criminal proceedings against licensed drivers who discriminate. The Department anticipated publishing a consultation on the issue of accessible taxis in 2008 but urged local Authorities who wished to adopt local accessibility policies for taxis not to hold back on any local initiative in anticipation of national regulations straight away.
7. At that time, both the former South Bedfordshire District Council (SBDC.) and the former Mid Bedfordshire District Council (MBDC), followed the Department for Transport's advice and adopted wheelchair accessible policies in order to improve the availability of taxis for disabled people in their areas. This policy was carried forward and included as a hackney carriage policy for Central Bedfordshire.

Current Policy

8. The conditions attached to hackney carriages for Central Bedfordshire, therefore, include a wheelchair accessible policy. Our conditions state that the vehicle must be wheelchair accessible and conform to various licence conditions. Our conditions also state that, hackney carriages currently licensed that are not wheelchair accessible are permitted to be re-licensed up to a maximum of 10 years from the original date of vehicle registration provided they pass the mechanical inspection. Any replacement vehicle will be required to meet all our wheelchair requirements.
9. At the time of writing this report, 225 vehicles are licensed as hackney carriages in Central Bedfordshire. Of these, 27 are not wheelchair accessible and will need to be replaced by wheelchair accessible vehicles when they reach 10 years old. Therefore, 12% of the current hackney carriage fleet are not wheelchair accessible.
10. When the wheelchair policy was adopted by Central Bedfordshire in January 2010, Members were asked to note that many of the trade were unhappy because they felt that only a proportion of the hackney carriage fleet should be wheelchair accessible. Officers informed Members that, if they wished to change the policy, it would first be necessary for a full consultation to be carried out. Members were also asked to note that the Department for Transport were themselves carrying out a consultation on how best to meet the needs of a broad range of disabled people, not just wheelchair users. Members were informed that they would be advised of any conclusions and recommendations made by the Government on the matter and, when received, the trade could be consulted on any government recommendations.

11. The Government has now made new regulations for taxis and private hire vehicles in the form of The Equalities Act 2010. This Act appears to have overtaken the government consultation and only refers to wheelchair accessible vehicles rather than specifying a broad range of vehicles although further recommendations could be received at a future date.
12. In the absence of any Government recommendations, and in view of the fact that the trade were informed that they would be consulted on the matter as soon as possible, Members of the Regulation Committee resolved, on 17 November 2010, that a 12 week consultation be carried out to seek views on how to meet the needs of a broad range of people using hackney carriages, not just wheelchair users, and that the following groups would be consulted:
 - Members of the Hackney Carriage and Private Hire trade;
 - Groups serving the disabled in Central Bedfordshire;
 - Members of the travelling public.

The consultation period ended on 31 March 2011.

Consultation

13. All hackney carriage and private hire licence holders, numbering approximately 750, were consulted and asked whether they felt that the current Central Bedfordshire policy for taxis should be changed to permit a proportion of non-wheelchair accessible vehicles.
14. The response from the trade can be summarised as follows:-
 - A petition signed by 71 drivers stating that they wished to retain the current wheelchair accessible policy for all hackney carriages.
 - A petition signed by 9 drivers stating that they wished to change the current policy to permit a proportion of non-wheelchair accessible hackney carriages.
 - 10 individual letters requesting a change to the current policy to permit a proportion of non-wheelchair accessible hackney carriages.
15. A copy of the petition signed by those of the trade in favour of retaining the current wheelchair accessible policy will be at the committee meeting should Members wish to view it. A copy of the covering letter can be found at **Appendix A** for Members information.
16. A copy of the petition signed by those of the trade who wish to change the current policy will be at the committee meeting should Members wish to view it. A copy of the covering letter, together with individual letters from the trade, can be found at **Appendix B** for Members information.

17. As part of the consultation, accessibility of hackney carriage survey questionnaires were sent to representatives on the Central Bedfordshire Council's stakeholders lists for:

- Community Groups – Older People;
- Voluntary Organisations – Charity – Disability;
- Voluntary Organisations – Charity – Age;

Questionnaires were also sent to approximately 50 representatives of sheltered housing units.

The consultation survey could also be also accessed via the internet.

A copy of the letter sent to the various groups, together with a copy of the questionnaire can be found at **Appendix C** for Members information.

18. Unfortunately, the survey did not generate a great deal of interest and only 18 questionnaires were returned.

19. The results for the accessibility survey can be found at **Appendix D**. However, caution must be taken when interpreting these results as they are based on a very small number of responses and therefore may not be true reflection of those whose views were being sought. In many cases if one respondent responded with a different view, this could change the overall result significantly.

20. A written response was received from Mike Newman, Dunstable and District Pensioners Association and is attached at **Appendix E** for Members information.

21. A written response was received from Roy Storey, Chairman of Central Beds Access Group after the consultation period had ended. A copy of his response is attached at **Appendix F** for Members information.

22. A written response was received from a licensed driver after the consultation period had ended. A copy of the response is attached at **Appendix G** for Members information.

23. A written response was received from a member of the public after the consultation period had ended. A copy of this letter and our response is attached at **Appendix H** for Members information.

Main Considerations

24. When the wheelchair accessible policy was introduced, a major factor in the decision was the Government's intention to introduce regulations requiring all hackney carriages to be wheelchair accessible.

25. The Government have not yet introduced regulations requiring all hackney carriages to be wheelchair accessible. It has also become clear that not all wheelchair accessible vehicles are suitable for the travelling public and many semi-ambulant travellers find difficulty in using some of the larger wheelchair accessible vehicles. The Government has now acknowledged that local Councils are best placed to decide on the composition of their hackney carriage fleet.
26. Members are asked to note that the wheelchair policy only applies to hackney carriages and not private hire vehicles. Whilst it is possible for the travelling public with similar disabilities (i.e. semi ambulant, not requiring to travel in a wheelchair) to use private hire vehicles, (which in the main are saloon type), our wheelchair accessible policy only covers hackney carriages, which the Committee are reminded are allowed to pick up their passengers at a hackney carriage rank or be hailed or flagged down in the street.

Possible Options

27.
 - Option One – To retain the current requirement for all hackney carriages to be wheelchair accessible.
 - Option Two – To permit a percentage of hackney carriages to be saloon type non-wheelchair accessible vehicles (following the adoption of suitable vehicle conditions)

Option One

28. If Members are minded to retain the current requirement for all hackney carriages to be wheelchair accessible, the matter could be revisited, and a further consultation carried out, when the Government produces legislation on the minimum requirements for the percentage of wheelchair accessible vehicles.

Option Two

29. If Members are minded to allow a percentage of hackney carriages to be saloon type vehicles before any legislation has been issued, and in the absence of any recommendation from the Government, Officers would recommend that we do not increase the current percentage of 12% of saloon vehicles be permitted to be licensed as hackney carriages.
30. It would be necessary to maintain this balance by adopting a procedure based upon the numerical difference between wheelchair accessible taxis and non-wheelchair accessible saloon type vehicles.
31. In view of the fact that non-wheelchair accessible vehicles already make up 12% of the current number of hackney carriages, no immediate changes to the hackney carriage fleet would need to be made.

32. The total number of hackney carriages would need to be assessed annually, at the beginning of each year and, if necessary, applications invited to ensure that 12% of the fleet was made up of non-wheelchair saloon type vehicles.
33. Those proprietors who already licence a non-wheelchair accessible hackney carriage would be permitted to re-licence their vehicle until it is 10 years old from the date of first registration in line with our current conditions.
34. If, for reasons of age or any other reason, a non-wheelchair accessible hackney carriage is not re-licensed, applications will be invited to ensure that the 12% of the fleet is made of non-wheelchair accessible saloon type vehicles.
35. Officers would recommend that a random selection procedure in the form of a ballot be adopted to ensure fairness and that the precise number of saloon type vehicles be determined by the Head of Service, Public Protection based upon the numerical difference between wheelchair accessible taxis and non-wheelchair accessible saloon type taxis at the commencement of the ballot procedure.
36. If Members are minded to adopt such a ballot procedure, officers recommend that the procedure incorporate the following general principles:-
 - That the Council will invite expressions of interest in obtaining licences for a limited number of non-wheelchair accessible hackney carriage licences and that these to be received by a specified date;
 - That the opportunity to submit an expression of interest would be open to all;
 - Each person entering the ballot would have an equal chance of success;
 - The ballot draw to select the successful applicants shall be held in public;
 - The successful applicants must complete the relevant application processes and fully satisfy all suitability requirements for the grant, renewal or transfer (as applicable) of the hackney carriage licence within a period of 6 weeks from the date of the ballot draw;
 - Any person failing to complete application processes within the 6 week time limit would lose their chance to license a non-wheelchair accessible taxis and the opportunity would pass to another person whose name would have been drawn as a reserve;
 - Those individuals selected as reserves would not be given any priority in any similar ballot that might be held at a further date;

Appendices:

Appendix A – (Copy of a covering letter from the trade from those in favour of retaining
The current wheelchair accessible policy)

Appendix B - (Copy of a covering letter and copies of individual letters from the trade
from those in favour of changing the wheelchair accessible policy.

Appendix C – (Copy of questionnaire together with covering letter)

Appendix D – (Results of the accessibility survey)

Appendix E – (Response from Dunstable and District Pensioners Association)

Appendix F – (Response from Central Beds Access Group)

Appendix G - (Response from trade)

Appendix H - (Response from member of the public)

Background Papers:

None

Location of papers:

Watling House, Dunstable