

Purpose of Report:

To outline recent legal developments and to propose new actions supporting access to taxis by disabled people.

Recommended Action:

- (1) Taxis first licensed before 1 April 2001 remain unaffected and not subject to additional local conditions concerning access or adaptation with the exception of (5) below which will apply;
- (2) Adapted taxis (that is, those first licensed after 1 April 2001 which were required to be, and were, equipped with a swivel seat or which provided access to wheelchairs) which retain the swivel seat or which become fully wheelchair accessible remain unaffected. The operator of such a taxi shall not:
 - (a) Remove or replace the approved swivel seat or
 - (b) Change the vehicle for another that is not equipped with an approved swivel seat or is not fully wheelchair accessibleIn addition, condition (5) will apply.
- (3) Unadapted taxis (that is, taxis first licensed after April 2001, which were not equipped with either a swivel seat or that could provide full access to wheelchairs) shall provide full wheelchair accessibility from either the next change of vehicle or 1 April 2006 whichever is the sooner. In addition, condition (5) will apply.
- (4) All taxis licensed after 7 December 2004 will provide full wheelchair accessibility.
- (5) No taxi proprietor may enter into arrangements with another person to share an interest in a taxi plate in circumstances intended to avoid any condition providing facilities for the disabled.

List of other options considered:

A number of other options are set out in the report including taking no further action pending national legislation.

Key background documentation:

None

Contact Officer Details

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Supporting Information

1. Background

- 1.1 A taxi here means a licensed hackney carriage. The term therefore excludes licensed private hire vehicles that operate under different rules. It is important to note too that when discussing taxis in this context, the term relates to the licence or plate not a specific vehicle. Hence as an old vehicle wears out, its plate can legally be transferred to a newer vehicle. The old vehicle is no longer a taxi and the new vehicle becomes a taxi with all the legal benefits and restrictions that brings.
- 1.2 Some years ago the Council received various reports on the subject of taxis and in particular access to them by disabled people. One of the reports set out options for introducing a series of measures to improve access. Members decided to opt for changing the conditions linked to taxi plates by requiring taxis first licensed after April 2001 to provide either an approved swivel seat for the front passenger or to provide a complete vehicle that was fully wheelchair accessible.
- 1.3 Older taxis, that is, those first licensed before April 2001, were to be exempted. The new condition did not apply immediately. Instead it was to become operational on 31 August 2003 and all new applicants were advised of this. In the next few years many taxi operators met the condition by either buying full wheelchair accessible vehicles or fitting the approved swivel seat. However a minority of operators did not do so before the deadline. Instead, when the new condition became operational, they chose to appeal it. In all, six operators appealed the condition in the magistrates' court. The appeal found in favour of the operators because the stipendiary magistrate felt the approved swivel seat, although safe, was not appropriate for some passengers. In his ruling he said that had the Council sought to impose the wheelchair accessible condition alone, he would have rejected the appeal. He was however unable to split the two conditions, a point in law subsequently found to be in question.
- 1.4 Naturally an appeal against this finding was considered. There were several points in favour of mounting a further appeal both legal and practical. However it became obvious that assistance from central government, the seat suppliers and the motor trade was not likely to materialise in time or in a form officers had been led to believe. On robust legal advice a decision was made not to pursue the action.
- 1.5 Knowing a further appeal was at least a possibility, this committee received a report at its September 2004 meeting and resolved to suspend issuing further taxi licences pending. This would prevent further challenges to the conditions and give an opportunity for officers to work up and consult the trade on options for further action. The trade consultation has now taken place and is reflected later in the recommendations.

2. The Basis for Any Next Moves.

- 2.1 To assist in deciding what, if anything, to do next, it is useful to consider the existing taxi fleet as falling into three categories:
- "Older" taxis first licensed before April 2001. These were exempt from the earlier changes. Most are saloon cars, do not have facilities for the disabled and most are not wheelchair accessible.
 - "Adapted" taxis first licensed after April 2001 which were equipped with a swivel seat or which provided access to wheelchairs.

- “Unadapted” taxis first licensed after April 2001, which should have, but which were not, equipped with either a swivel seat or could provide access to wheelchairs.

- 2.2 In addition there is a fourth category, namely those taxis yet to be licensed. Some of these would ordinarily have been licensed were it not for the moratorium imposed in September 2004 and are therefore waiting in the wings. Most however are the unknown applications yet to be received in the normal turn of events.
- 2.3 In considering all future options it seems reasonable not to change the general policy in relation to older taxis. The view, long taken by the Council, is these taxis were already in the fleet and it would be unfair to impose a retrospective condition. It would also mean the fleet would retain a proportion of unadapted taxis. This is the view of the taxi trade who say it is important to keep some saloon cars which are suited to the rural areas and which are favoured by some passengers. Whilst this was certainly true some years ago, cheaper alternatives to traditional London Cab designs are now commonly available. These newer designs are based on saloon cars or vans and for many they are lighter, more manoeuvrable and more comfortable in rougher conditions.
- 2.4 The Council can legally impose conditions for disabled access on these older taxis if a fully disabled friendly fleet becomes the objective. However to do so means the risk of legal challenge increases. This may in any case, eventually be overtaken by national requirements in the more distant future when all taxis will need to provide facilities for the disabled. When exactly this might happen remains unclear.
- 2.5 On balance, officers recommend continuing the current policy of exempting older taxis. However, it is clear some taxi operators have acquired older taxi licenses by becoming a joint holder with an existing plate holder. The first holder then relinquishes the shared plate to the newcomer by sale or otherwise. By this means the newcomer gets a plate that is, and will probably remain, exempt from new conditions. Officers with taxi trade support agree this is outside the spirit of members’ wishes and should be stopped. This can be achieved by a change in the taxi conditions reflected in the main recommendation to this report.
- 2.6 Adapted taxis, either by virtue of a swivel seat or full wheelchair access, have provided good service for several years to the elderly, the infirm and the disabled. The courts have rejected Council moves to have swivel seats as an alternative to full wheelchair access because they are difficult for some people to use. However their safety has never been an issue and whilst not popular with some taxi operators, they have been used with reasonable success. The taxi trade and officers feel that the Council, in any future decisions, should support those taxi operators who fitted and continue to provide swivel seats and this is reflected later in the main recommendation.
- 2.7 Unadapted taxis form a significant proportion of newer taxis in the fleet. Only a small number arose however because their operators appealed against the condition requiring either a swivel seat or full wheelchair accessibility. The majority arose because their operators were genuinely awaiting the outcome of the appeal or possibly because they had little intention of ever meeting the spirit of the condition. It is perhaps significant that when taking out a licence after April 2001, all operators were made fully aware the new condition would be applied some years hence. However they chose not to raise objections until the condition came into force when they then appealed.
- 2.8 In September 2004 this committee decided to suspend issuing any new plates because a decision was still awaited about a possible appeal by the Council to the earlier court case. A question now arises therefore about new licences and what conditions concerning disabled facilities can and should be imposed. It is clear from the court case that a condition requiring a swivel seat cannot realistically

be imposed. Equally, the court has indicated that a condition imposing full wheelchair accessibility is legal and would probably be successful if challenged. In broad terms, the taxi trade and officers favour such a move.

3. Options.

3.1 The first option is the officer recommendation set out at the beginning of this report. This option is supported by representatives of the taxi trade.

3.2 Other options members may wish to consider revolve around or are permutations of:

- (a) A minimal or do nothing approach, pending national legislation. It is very unclear when this may come about but some observers predicted 2012.
- (b) A policy of full wheelchair accessibility for all taxis irrespective of when first licensed taking effect either immediately or from a date to be determined.
- (c) A permutation or change in commencement date(s) detailed in the officer recommendation. For example, the commencement date could be a sooner or a later date.

Appendices

None

Implications

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| Policy: | There is no formal policy on this subject other than a broad policy of the Council linked to equalities below. |
| Financial: | The recommendations may tend to reduce the number of taxis on the road. This in turn may affect income from licensing although the exact impact is impossible to predict. |
| Personnel: | None |
| Legal: | The report summarises the recent legal actions and the recommendations involve imposing new licence conditions for taxis. These reflect the experience of the last appeal and generally recommend the imposition of a wheelchair only condition for new licences. This is itself appealable and therefore carries a degree of risk. Like most actions of this kind, it also brings a risk of judicial review. |
| Environmental: | If members opt to resolve to impose a wheelchair only policy for new taxis, this may result in fewer additional taxis on the road. The exact impact is however difficult to predict. |
| Equalities: | The provision of reasonable levels of access to taxis by disabled people is central to the Council's equality policy. |
| Property: | None |
| Risk Management: | None |
| Community Safety: | None |

Consultation Responses

Local Stakeholders: Representatives of disabled people and representatives of the taxi trade.
Officers Consulted: Elizabeth Howlett, Legal Services Manager
Trade Union: None