

Title of Report:	Specially Adapted Taxis
Report to be considered by:	Licensing Committee
Date of Meeting:	16 December 2014
Forward Plan Ref:	N/A

Purpose of Report: To inform Members of a request for all front passenger swivel seats to be removed from licensed taxis.

Recommended Action: To replace all swivel seated vehicles with wheelchair accessible vehicles by 1 April 2016 or at the next change of vehicle, whichever is the sooner.

Reason for decision to be taken: Request from the Hackney Carriage Trade to review the condition for swivel seats.

Other options considered:

1. Do nothing until the Government have decided if the Taxi & Private Hire Bill will become legislation.
2. Require all taxis to become wheelchair accessible, by a date to be decided.
3. Allow all swivel seated vehicles to become free of disabled access provisions.

Key background documentation:

1. Testing of the ELAP seat January 2000.
2. Accessibility to taxis for people with disabilities - WBC's requirements re SAV's.
3. Briefing Note - Access for Disabled People in Taxis.

The proposals will also help achieve the following Council Strategy principle:

CSP5 - Putting people first

Portfolio Member Details	
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Date Portfolio Member agreed report:	03 December 2014

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Implications

- Policy:** An decision to change licence conditions would be incorporated into any current policy.
- Financial:** There are no financial implications for the Council regardless of the outcome of this report.
- Personnel:** None
- Legal/Procurement:** Any new or changed conditions will become mandatory by virtue of section 47 Local Government (Miscellaneous Provisions) Act 1976. Conditions attached to taxi licences may be appealed through the Magistrates' Court should the licence holder be aggrieved at the condition.
- Property:** None
- Risk Management:** None

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality – EIA Completed				<input checked="" type="checkbox"/>
Not relevant to equality				<input type="checkbox"/>

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The Council currently has a taxi licence condition which requires all newly licensed vehicles to be wheelchair accessible. Some vehicles first licensed before 15th March 2005 were given a dispensation from becoming wheelchair accessible but were required to fit a front passenger seat which had the ability to swivel to the near side to facilitate access for those with some movement restrictions. This condition evolved over a number of years and all relevant information is covered by appendices to this report.

2. Proposals

- 2.1 Members are asked to consider the content of the report having taken into consideration all associated information provided and officer's recommendations and decide if the current condition on swivel seats should be updated.

3. Equalities Impact Assessment Outcomes

- 3.1 An Equalities Impact Assessment has been completed. Consultation has been carried out with the Council's Access Officer and with the Chairman of the West Berkshire Disability Alliance. By adopting officer recommendations the disabled, elderly and infirm population of West Berkshire would be better served through the provision of taxi/private hire passenger services.

4. Conclusion

- 4.1 Although the taxi trade would welcome a decision in this matter, Members should be aware that the Government published a Bill earlier this year which was intended to be made available for full consultation before being approved by Parliament. The Government has however stated that they do not intend to move the Bill forward, certainly during this Parliament and with no indicator beyond May 2015.

Executive Report

1. Introduction and Background

- 1.1 This report has been written following a request from members of the taxi trade to review a condition which was imposed by the Licensing Committee in 2005. This decision to impose the condition followed a long period of discussion, consultation, legal actions and Committee deliberation. The build up to the decision being taken is important for Members to understand and is complicated. The report addresses the background in chronological order for ease of referral.
- 1.2 At a meeting of the Public Protection Committee held on the 6th June 2000, the Committee resolved to;
 - 1.2.1 Adopt in principle, a number of proposals and instruct officers to consult with interested parties, including parish councils and trade associations, some of which were;
 - 1.2.2 Introduce a requirement that all new licences issued have a condition attached that vehicles be suitable for wheelchair users and other people with disabilities.
 - 1.2.3 All existing licence holders to continue to use saloon cars as long as legislation allows;
 - 1.2.4 require all transferred licences to change to wheelchair accessible vehicles (SAV's) the next time the vehicle is changed.

The report and minutes are attached as Appendix A.

- 1.3 At a meeting of the same committee held on the 3rd July 2000, Members were presented with a report which described the outcomes of consultation with trade associations and parish/town councils on proposed changes to taxi licensing arrangements adopted in principle by the Committee on 6th June 2000 and options for decision.
 - 1.3.1 The report covered a number of taxi related matters however as this report relates only to swivel seats in respect of disabled accessibility other subject matter is not reported.
 - 1.3.2 Responses to the consultation referred to in 1.3 above were as follows;
 - 1.3.3 Town and Parish Councils were sent a copy of the Committee report from the meeting on the 6th June 2000 and replies were received from eight. None of the responses addressed the issue of wheelchair accessible vehicles.
 - 1.3.4 At the time of the meetings there were two active trade associations consulted. These were the Town Association and the District Association. These bodies did address the issue of SAV's with the Town association accepting the requirement that all new licences should be issued only to vehicles which have been suitably adapted for use by disabled and the District association supporting the requirement that all new licences issued be for SAV's.

1.3.5 Options put forward for consideration at this meeting clarified a definition of a Suitably Adapted Vehicle (SAV).

Suitably adapted vehicles for use by disabled persons will include:

- (a) Any Metrocabs, Eurocabs, FX1 (or any other like vehicle)
- (b) Any vehicle which has been adapted or modified to provide improved access for disabled persons, together with storage and carrying capacity for any equipment that they may have (e.g. Wheelchair) and which does not preclude the carriage of normal quantities of luggage and personal belongings.
- (c) In the event of dispute between the applicant and the Council as to whether or not a vehicle meets the SAV requirements, the West Berkshire Liaison Group on Disabled Access shall be invited to arbitrate. Any vehicle subsequently approved under this procedure shall be included in a "Type Approved" list.

NOTE:

While this mechanism cannot be guaranteed to meet DETR and DTI requirements, it is thought to be unlikely that either department would argue against it as an appropriate way forward.

The report is attached as Appendix B.

- 1.4 The minutes of the meeting of the 3rd July 2000 show a resolution to "approve Option 5 (the option including the SAV condition) as the way forward -a period of derogation for existing licence holders and transferees to switch to vehicles "suitably adapted or designed for ease of use by disabled passengers" (SAV's), and impose a requirement for persons who were not West Berkshire Council taxi licence holders as at 6th June 2000 to provide an SAV within a specified period.

The minutes of this meeting are attached as Appendix C.

- 1.5 In response to this condition being approved by the Public Protection Committee, an application for Judicial Review was sought by Rodney James Nemeth, a West Berkshire Council hackney carriage licence holder in July 2000.

- 1.5.1 The Judicial Review was heard by the Honourable Mr Justice Hunt on the 6th and 8th of December 2000 when he dismissed the claim on behalf of Mr Nemeth.

Judicial Review application and decision are attached as Appendix D.

- 1.6 As a result of the Judicial Review decision, conditions for Hackney Carriage Proprietor (Vehicle) Licences were amended. These conditions included the following definition;

- 1.6.1 Definition of Suitably Adapted Vehicle (SAV)

Either:

- a) a saloon car fitted with at least - a seat that swivels on its own axis or; a swivel seat that also slides out

- b) a vehicle with full wheelchair access - including fixing points, straps, anchors and ramps.

This condition is attached as Appendix E.

- 1.7 The decision to introduce a disabled access vehicle policy had been considered in order to comply with the Disability Discrimination Act 1995 (DDA) however these requirements were never implemented and have now been superseded by the Equalities Act 2010.
- 1.8 Notwithstanding the Government's decision to not go ahead with the disabled access vehicle policy through the Disability Discrimination Act, Councillors decided that there was sufficient justification in proceeding with the condition to require disabled access vehicles for all new licences and to allow those vehicle owners who qualified to fit swivel seats. However further and extensive consultation was carried out prior to the condition being implemented.
- 1.9 A report was presented to Members at the Licensing Committee meeting held in September 2004 when they decided to place a moratorium on issuing any new taxi licences until the outcome of a pending appeal against the condition was determined.
- 1.10 A small number of taxi operators (6) decided to challenge the Council in February 2004 on the proposed conditions, through the Magistrates' Court. The outcome of the appeal was that the Stipendiary Magistrate allowed the appeal as he felt that the swivel sets, although safe, were not suitable for all passengers. However he noted that, had the Council chosen to impose only the fully wheelchair accessible option, the appeal would have been dismissed. As only 6 taxi operators appealed the condition, it was only legally binding to them and as no further appeals were forthcoming, the condition still applied to all other affected operators.

The Judges' summing up and comments are attached as Appendix F.

- 1.11 Further discussions and reports were presented to the Committee over the disabled access issues culminating in a report to the Licensing Committee on 14th March 2005 when the Committee resolved that:
- (2) a mixed fleet of vehicles be maintained in service;
 - (3) those taxis licensed before April 2001, the group presently not subject to conditions requiring disabled access, should continue to be free from conditions relating to disabled access, subject to any national legislation which might be introduced at a later date.
 - (4) applicant's who were granted licences subject to disabled access conditions and who met those conditions by providing either wheelchair access or a swivel seat, should remain subject to those conditions;
 - (5) all taxis first licensed from 15th March 2005 should be granted on the condition that vehicles provide full wheelchair accessibility;
 - (6) unadapted taxis (that is taxis licensed after April 2001 which were not equipped with either a swivel seat or that could provide full access to wheelchairs) should provide

full wheelchair accessibility from either the next change of vehicle or 1 October 2006, whichever was the sooner.

The report and minutes of this meeting are attached as Appendix G.

1.12 A further report was submitted to Committee on this subject on 26 April 2005.

The report and minutes of this meeting are attached as Appendix H.

2. Current Position

2.1 Since the 15th March 2005 all newly licensed taxis have been required to be licensed as wheelchair accessible vehicles.

2.2 The current fleet is made up of the following numbers;

Wheelchair accessible taxis	88 which equates to 46%-
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Swivel seated vehicles	29 which equates to 15%
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Un-adapted vehicles (protected vehicles)	72 which equates to 39%
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2.3 In addition to the taxi fleet the Council licences private hire vehicles of which there are 138, none of which are wheelchair accessible.

2.4 In total this gives a fleet of public transportation vehicles, licensed by the Council, of 327. 190 (58% of the total fleet), of which may be flagged down pick up at a rank or be pre booked and 138 (42% of the total fleet) which may only be pre booked

2.5 The total number of drivers licensed by the Council is 394.

3. Trade Position

3.1 Although there are only 29 vehicles fitted with swivel seats, the owners of these vehicles believe that they are not really suitable as a device for assisting the elderly, infirm or disabled passengers and would like the conditions which require this facility overturned.

3.2 As can be seen from the appendices reports a great deal of thought and deliberation went into agreeing conditions at the time and those who chose to fit a swivel seat did have the option to adapt or purchase a vehicle which was wheelchair Accessible.

3.3 We are now in the position of all vehicles newly licensed since March 2005 having wheelchair accessibility vehicles with some who were licensed prior to March 2005 having opted for the wheelchair accessible vehicle option, and the original "Town Zone" taxis (un-adapted vehicles) which were afforded a full dispensation from becoming specially adapted as long as the vehicle remained in the ownership of the proprietor as of 1 April 2001 or his/her family.

3.4 In the trades requests for this condition to be reviewed some of the reasons given are safety issues (ruled out by District Judge English), that the seats do not achieve means testing and that some proprietors are now in a position where they wish to change their vehicles, but would like to know the Council's position. It would be unreasonable for the Council to require a proprietor to purchase a new vehicle, pay

for a seat being transferred to the new vehicle and then change its position in the near future.

4. Position of the Disability Alliance and the Council's Access Officer

4.1 The Chairman of the West Berkshire Disability Alliance has been consulted and on behalf of his organisation he supports the recommendation.

His comments are attached as Appendix I

4.2 The Council's Access Officer has commented on the proposals and she supports the recommendation.

Her comments are;

I confirm that I share the view of the West Berkshire Disability Alliance in maintaining a mixed fleet and keeping the swivel seat in the equation by converting them to full WAV's (wheelchair accessible vehicle).

This would maintain our status quo in % of accessible vehicles on the fleet.

Although we are fully aware that wheelchair users are less than 8% of disabled population, it is this group would experience the greatest difficulty if we adopted option 1. By making this figure worse I suggest that we could be challenged. If we keep the figure of 61% this gives a very positive message to all. In every area I work within, my bottom line justification is: where we can't make it better, never make it worse.

5. Conclusion

5.1 The 29 licensees who currently have a swivel seat condition on their licence have not been consulted directly. However, each of these licence holders has received a copy of this report and could, at the Chairman's discretion, ask for standing orders to be removed in order for them to state their case for either the recommendation or the options provided in this report. Alternatively, Members could opt for the 29 vehicle owners to be consulted prior to any decision being made.

Appendices

Appendix A - Committee Report and Minutes 6 June 2000

Appendix B - Committee Report 3 July 2000

Appendix C- Minutes of Committee Meeting 3 July 2000

Appendix D - Notice for application for permission to apply for Judicial Review and other Court papers

Appendix E - Additional Hackney Carriage Proprietor (Vehicle) Conditions

Appendix F - Magistrates Court Transcript

Appendix G - Committee Report and Minutes 14 March 2005

Appendix H - Committee Report and Minutes 26 April 2005

Appendix I - E Mail Chairman of West Berkshire Disability Alliance to B Leahy

Consultees

Local Stakeholders: Hackney Carriage Proprietors, West Berkshire Disability Alliance

Officers Consulted: Sarah Clark Solicitor Team Leader, Valerie Witton Access Officer

Trade Union: N/A