

Is the final decision on the recommendations in this report to be made at this meeting?

No

Hackney Carriage Specifications

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|---------------------------------------|--|
| Final Decision-Maker | Licensing Committee |
| Head of Service | Head of Housing and Community Services |
| Lead Officer and Report Author | Lorraine Neale |
| Classification | Non-exempt/ |
| Wards affected | All |

This report makes the following recommendations to the final decision-maker:

1. That Members recommend to the Communities, Housing & Environment Committee that the Hackney Carriage & Private Hire Licensing Policy is amended to include the Peugeot E7 within the definition of approved vehicle; and remove Section 5 relating to the turning circle requirement of Appendix 5A of the Policy;
2. That Members recommend to the Communities, Housing & Environment Committee that the Hackney Carriage & Private Hire Licensing Policy is amended to delegated authority is given to the Head of Housing & Community Services to add or remove vehicle types to those that are approved for licensing.

This report relates to the following corporate priorities:

- Great Place

Timetable

| Meeting | Date |
|--|----------------------------|
| Licensing Committee | 16 th June 2016 |
| Communities, Housing and Environment Committee | 19 th July 2016 |

Hackney Carriage Specifications

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 For Members to consider the Council's current Hackney Carriage Vehicle specification to expand the types of vehicle that can be licensed in Maidstone Borough area and to make recommendations to the Communities, Housing & Environment Committee on any necessary amendments to the Hackney Carriage and Private Hire Licensing Policy and Hackney Carriage Vehicle conditions as a result.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Council's current policy requires that Hackney Carriages licenced in the Borough meet the design criteria specified by the Metropolitan Conditions of Fitness (CoF). These are determined by Transport for London (TfL), formally, the Public Carriage Officer (PCO), which acts as the Licensing Authority in London for taxis. This means that entry on the hackney fleet in Maidstone is currently restricted to just two vehicles, the traditional London Taxi TX vehicles and the Mercedes Vito Taxi.
- 2.2 At the licensing Committee meeting on the 24 September 2015 Members were asked by the Hackney Trade to consider their request to licence the E7 Eurocab, built by Peugeot (Appendix A) and add it to the list of approved Hackney vehicles for the Borough of Maidstone. There are many other types of Eurocab which are not currently licensed, including Citroen, Discovery, Mercedes M8, Renault, Fiat, Volkswagen, Vauxhall and Ford.
- 2.3 However, it is important to note that there is no vehicle made for use as a Hackney Carriage that is truly and equally accessible to everyone. The most effective way to meet most people's needs is to allow a range of vehicles to be licensed as Hackney Carriages that are able to meet the variety of needs for disabled passengers. The Hackney trade requested at the licensing Committee meeting on the 24 September 2015 that the Peugeot E7 by Allied Vehicles be added to the Authorities approved list. There are currently 48 Hackney vehicles licensed in Maidstone and the majority of them are of the TX type. The Peugeot E7 will be purchased by some drivers to replace some of those 48 vehicles. The matters considered in respect of this vehicle have been.

Wheelchairs

- 2.4 There has been recent case-law that has challenged the type of vehicle that is licensed by local authorities on the basis that it discriminates against wheelchair users. The case is Alma Lunt and Allied Vehicles Limited v Liverpool City Council (2009) set out in Appendix B. In this case the Judgment found that Liverpool City Council had incorrectly considered that its Hackney Carriage fleet were 'wheelchair accessible' and that it was found the Authority had failed to consider wheelchair users who had wheelchairs

larger than the 'reference' wheelchair. Their decision to refuse to licence an E7 Eurocab was quashed on appeal and returned to the Council for re-determining.

- 2.5 In light of this case, members are asked to consider the term 'wheelchair accessible'. Guidelines state that a vehicle is 'wheelchair accessible' if a wheelchair of a certain size and weight can be carried by the vehicle (referred to as a reference wheelchair). However, it does not cater for an increasing number of wheelchairs which are longer, higher, wider or heavier than the specification.
- 2.6 Section 49A of the Disability Discrimination Act 1995 requires public authorities carrying out their functions, to have "due regard" to a list of specified matters, including:
 - The need to eliminate discrimination that is unlawful under the Act
 - The need to eliminate harassment of disabled persons that is related to their disabilities
 - The need to promote equality of opportunity between disabled persons and other persons
 - The need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons
 - The need to promote positive attitudes towards disabled persons
 - The need to encourage participation by disabled persons in public life
- 2.7 Therefore, the Licensing Authority must have "due regard" to the needs of passengers who have wheelchairs that do not fit within the 'reference' wheelchair.
- 2.8 Where a policy requirement prohibits the licensing of a vehicle capable of meeting this need, the relevant Authority must show that they have paid due regard to this need and reflect this in their decision to adopt such a policy, therefore leaving the decision and policy open to challenge.
- 2.9 An Authority must also consider Article 28 of the EC Treaty when making such a policy. This Article prohibits measures of equivalent effect to quantitative restriction on imports. Where a vehicle has been purpose built as a taxi (such as an E7 Eurocab), and it cannot be sold within Maidstone as a taxi because policy prohibits this, then Article 28 is breached. The Eurocab type vehicles are not factory built hackney carriages but are modified for purpose as a hackney carriage they are M1 Vehicles designed and constructed for the carriage of passengers, comprising no more than eight seats in addition to the driver seat. The modified vehicles have EC Whole Vehicle Type Approval, this is the most stringent of vehicle certification.
- 2.10 The 'reference' wheelchair has standard dimensions, set by the Department for Transport. They are:

Height - 1,350mm

Length - 1,200mm

Width - 700mm

Weight (including occupant) - less than or equal to 300kg

- 2.11 There are an increasing number of wheelchairs in service which are outside of these requirements. Nationally, there are over 2,000 different types of wheelchair in use. Currently all types of electric and power assisted wheelchair are too heavy to be considered as reference wheelchairs and so are not considered in 'wheelchair accessible' surveys. Any standard bariatric wheelchair will also be outside of the accessible terms due to weight.
- 2.12 The consideration should reflect whole vehicle types, rather than specific models. The vehicle types can either follow an approved list, decided on a case by case basis in consultation with the trade, or using the current M1 EC Whole Vehicle Type Approval system.
- 2.13 Members should also consider matters relating to restraint safety. The LTI and Reliant Metrocab Hackney Carriage vehicles licenced in Maidstone have restraints that cater for rear facing wheelchair passengers and this is the only method of carriage available in these vehicles. There is an approved method of securing both the wheelchair and passenger when secured rear facing. However there is a current level of risk where the wheelchair does not rest against the partition bulkhead. This was considered in the Department for Transport consultation and it was proposed to introduce additional head and neck restraints. The Mercedes Vito vehicle licenced by Maidstone Council can be fitted to carry wheel chair passengers both front and rear facing.
- 2.14 Furthermore, with a rearward facing wheelchair in a frontal impact, the restraint offers only offers protection against recoil, it does not protect against the initial impact.
- 2.15 A number of Eurocab vehicles differ due to the number that caters for forward facing wheelchairs. A number of vehicles also offer adjustable restraint tracks. Forward facing restraints will offer more protection against frontal impacts.
- 2.16 Additionally, design improvements in vehicle types are now catering for increased accessibility measures. These measures include electric ramps, electric retractable seats, adjustable floors, etc.

Turning Circle

- 2.17 Our current policy includes under the Hackney Vehicle specification a condition that refers to the "Turning Circle" Page 39, number 5.

- (i) The vehicle must be capable of being turned on either lock as to proceed in the opposite direction without reversing between two vertical parallel plans not more than 8.535 metres apart. (28.19 feet)
- (ii) The wheel turning circle kerb to kerb on either lock must not be less than 7.62 metres in diameter. (25 feet)

Currently there are only two vehicles that can meet the turning circle requirement and fall within the Councils policy for hackney carriage vehicles i.e. The London Taxi Cab vehicle and the Mercedes Vito Taxi. This condition would need to be removed from the policy in order to include the Peugeot E7 to the approved list.

3. AVAILABLE OPTIONS

- 3.1 That the current Hackney Carriage specifications remain in place, OR
- 3.2 That the current Hackney Carriage specifications be modified to allow the Peugeot E7 to be added to the approved list and ongoing modification be delegated to the Head of Housing and Community Services on a case by case basis.

4. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 4.1 The matter will be referred to the Communities, Housing & Environment Committee with a recommendation to amend the current policy and, if approved, the amended Policy will be available on the website and the Hackney Trade advised.

5. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue | Implications | Sign-off |
|---------------------------------------|--|--------------------------------------|
| Impact on Corporate Priorities | This report has links to community protection | [Head of Service or Manager] |
| Risk Management | The Council may be subject to legal challenge should it not carefully consider options as set out in the body of the report. This would carry attendant costs risks. | [Head of Service or Manager] |
| Financial | There are no financial implications for the Council arising from the change of vehicle licence specifications. The licensing service will continue to be | [Section 151 Officer & Finance Team] |

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| | delivered from within existing resource. | |
| Staffing | | [Head of Service] |
| Legal | <p>See risk above</p> <p>Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976 allows the council to attach to the grant of hackney carriage licences such conditions as it may consider reasonably necessary.</p> <p>Any person aggrieved by any condition attached to such a licence may appeal to the Magistrates' Court</p> | [Legal Team] |
| Equality Impact Needs Assessment | <p>Section 149 (1) of the Equality Act 2010 states that a public authority must have due regard to the need to</p> <p>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</p> <p>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</p> <p>(c) foster good relations between persons who share protected characteristic and persons who do not share it.</p> <p>Section 149 (4) of the Equality Act 2010 states that the steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p> | [Policy & Information Manager] |
| Environmental/ Sustainable Development | There is no environmental impact arising from this report as the vehicle meets the current and relevant EC Directive for exhaust emissions. | [Head of Service or Manager] |
| Community Safety | | [Head of Service or |

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|-------------------------|--|---|
| | | Manager] |
| Human Rights Act | | [Head of Service or Manager] |
| Procurement | | [Head of Service & Section 151 Officer] |
| Asset Management | | [Head of Service & Manager] |

6. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Specification
- Appendix B: Alma Lunt and Allied Vehicles Limited v Liverpool City Council (2009).
- Appendix C MBC Hackney Carriage and Private Hire Licensing Policy relevant pages

7. BACKGROUND PAPERS

- 7.1 Town Police Clauses Act 1847
- 7.2 Local Government (Miscellaneous Provisions) Act 1976
- 7.3 Human Rights Act 1998.
- 7.4 Road Traffic Act 1988
- 7.5 Public Service Vehicle Accessibility Regulations 2000
- 7.6 Equality Act 2010
- 7.7 Department for Transport's Guidance to Local Authorities on the Equality Act 2010.
- 7.8 Road Vehicle (Construction and Use) Regulations 2003