

Proposed Taxi Licensing Policy Amendments

1. Points-based enforcement systems

The Authority maintain a points-based enforcement system. Currently points issued to licensed drivers and operators under system remain on their record for 24 months. The Best Practice Guidance recommends that they should remain on a driver's record for 36 months and for operators for 60 months It is recommended that the duration is therefore increased to 36 months to align with the Guidance.

Proposed amendment to policy

Penalty Points issued, will remain current for 36 months for a driver or vehicle proprietor, and 60 months for an operator from the date the penalty points are issued. The period is on a roll forward basis, to allow any older points to be considered as spent and, therefore, excluded from the running total recorded against any individual licensee.

2. Disability awareness for Private Hire vehicle Operators

The Equality Act 2010 focused on the needs of people with protected characteristics, which includes disabilities. Public bodies, including local authorities, have a lawful duty of regard to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not. The Department for Transport's Draft Accessibility Action Plan described refusals of assistance dogs by taxi and PHV drivers as "unacceptable and illegal", noting the serious impact of refusals on people's confidence and ability to live independently.

The proposal in the Best Guidance states that Private Hire operators frequently encounter passengers with various disabilities, and it is therefore considered necessary that all licensees are aware of the needs of disabled passengers. Disability awareness training benefits both the customer, driver and operator and the Council should make it a pre-condition for being granted an Operator's licence and enforce current Operators to complete the training.

Proposed amendment to Policy

All new Operator applicants, and current Operators, where they are not also licensed as drivers, are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by MSDC and delivered through a provider of their choice. This is to ensure that they operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers.

3. Vehicle identification and signage

Members of the public can often confuse private hire vehicles with taxis, failing to realise that they are not available for immediate hire and that a private hire vehicle driver can only fulfil pre-booked requests. The Best Practice Guidance states that licensing authorities should not permit roof signs of any kind on private hire vehicles. Permitting any sign/box on a private hire vehicle, regardless of the wording on such a sign, is likely to increase awareness of the vehicle and the likelihood of being

mistaken for a taxi. This is in addition to the policy that all Hackney Carriage Vehicles will be white in colour.

The Council's current Taxi Policy states:

Private hire vehicles may display a roof sign subject to conditions.

Proposed amendment to policy

Private Hire Vehicles will no longer be permitted to display a roof sign.

4. Emergency Equipment

Currently the Policy requires all licensed vehicles to carry a fire extinguisher. In respect of emergency equipment, the Guidance outlines that The Highway Code advises that should a vehicle catch fire, the occupants should get out of the vehicle quickly and to a safe place and not to attempt to extinguish a fire in the engine compartment, as opening the bonnet will make the fire flare.

The National Fire Chief Council (NFCC) recommends that licensing authorities that require fire extinguishers to be provided in vehicles, should ensure that suitable and sufficient training is received by the drivers. The NFCC's advice is that if a licensing authority elects not to require drivers to undertake training on the safe way to tackle a vehicle fire, vehicles should not be required to carry fire extinguishers and drivers advised to get out and stay out of the vehicle and call 999, rather than attempting to firefight.

Proposed amendment to policy

The condition mandating that a vehicle must carry a fire extinguisher is removed and the above advice is provided to drivers.

5. Wheelchair assessment tests

Currently Wheelchair Assessment Tests must be undertaken for drivers who intend to drive a Wheelchair Accessible Vehicle, this is to ensure that the driver meets the required legal safety standard when loading and securing wheelchair passengers.

Licensed vehicles can be rented by the proprietor to other licensed drivers and there is a need to ensure that all drivers of WAVs are appropriately trained.

Proposed amendment to policy

The proprietor of a Wheelchair Accessible Vehicle will be responsible for ensuring any driver of their vehicle has completed the Wheelchair Assessment course. Wheelchair Assessment Tests must be undertaken for drivers who intend to drive a Wheelchair Accessible Vehicle to ensure that the driver meets the required legal safety standard when loading and securing wheelchair passengers. In addition the vehicle proprietor must inform the Licensing Authority of the details of a new driver within 24 hours.

6. Introduction of Card readers for licensed Vehicles.

The licensing service has received a significant number of complaints over the past year due to licensed drivers refusing to accept card payments, causing concerns for public safety. It is proposed to amend the Hackney Carriage and Private Hire Licensing Policy to make accepting electronic payments mandatory for licensed vehicles.

Card payments accounted for more than half of all UK transactions for the first time in 2019. This figure has grown significantly since then, with the Covid pandemic accelerating the move to a cashless society. Card payments account for over 70% of all transactions and contactless payments now account for over a quarter of all payments in the UK.

Requiring licensed vehicles to accept card payments would provide customers with a guarantee that they can use their card universally.

Drivers are also concerned that there can be cash flow delays with card payments. Funds can sometimes take several days to clear. Only accepting cash payments means there is no problem with cash flow.

Drivers who regularly visit rural areas have concerns that they may not have network coverage. This would mean they physically couldn't take a card payment. Although there is telephone support, allowing payments to be made, if there is poor network coverage, there is no guarantee of this as an option.

Nevertheless, the underlying aim of the Council's taxi policy is the protection of the public and to ensure the public have reasonable access to hackney carriage and private hire services. Recent complaints received raise significant concerns around public safety. There have been reported instances where lone females late at night have been unable to get a licensed vehicle as their only payment method is by card.

The Council are therefore consulting on the introduction of mandatory card readers for all licensed vehicle. It is suggested that a two-month implementation period is set should the Council adopt the amendment to give drivers time to transition to the new Policy requirement.

Proposed amendment to policy

By <date>, all licensed Hackney Carriages vehicles must have available at all times an electronic device that allows contactless or card payments to be made. The driver must ask the passenger if they require a receipt. If the passenger requires a receipt, the driver must provide one which accurately states the time and date of the journey, driver number and fare.

By <date>, all licensed Private Hire vehicles must ensure at all times they can provide a means for passengers to pay for fares by card or as a contactless payment. This can be, but is not limited to, electronic card payment devices or operator websites and apps.

All payment devices must:

- a) comply with the requirements of the current UK banking industry standards as stipulated by the Financial Conduct Authority (FCA).

b) be checked regularly and maintained to operational standards, including repairs after any damage. Any damage preventing the device from functioning must be repaired within 7 days. If the device cannot be repaired, it must be replaced in 7 days. Failure to do so will lead to the vehicle licence being suspended, until a functional device is able to be in use.

c) meet all requirements and standards as stipulated by the card scheme companies in terms of connections to a host such as GPRS, 3G, 4G, Bluetooth or other connection methods to complete payment transactions.

d) provide the functionality to protect the confidentiality of critical data (in particular PINs) whilst the card transaction is being processed.

e) payments through apps are permitted, if a passenger has access to the app via their own phone or device. Drivers must not enter card details into their own phone or device to process a payment.

Licence holders are reminded they are legally obliged to comply with the requirements of data protection legislation in respect of all transaction processes, data management and storage. This includes the UK General Data Protection Regulations (GDPR), the Data Protection Act 2018 and any subsequent data protection legislation. You can find out more about your obligations from the Information Commissioner's Office (ICO). This is relevant when handling personal information such as names, addresses, email addresses and telephone numbers. All such processing must comply with the requirements of data protection legislation. Breaches of data protection legislation may impact on the ability to hold a licence with the Council.

It is also be proposed to amend the current penalty points scheme for driver failure to comply with the new conditions:

- Failure to comply with section 4.13 of the Policy - Requirement to have a card reader: 3-6 penalty points

The following condition is proposed to be added to Hackney Vehicle conditions: All licensed Hackney Carriage vehicles must have available at all times an electronic device that allows contactless or card payments to be made. A receipt which accurately states the time and date of the journey, driver number and fare, must be provided if requested by a passenger.

The following condition is proposed to be added to Private Hire Vehicle conditions:

All licensed Private Hire vehicles must ensure at all times they can provide a means for passengers to pay for fares by card or as a contactless payment. This can be, but is not limited to, electronic card payment devices or operator websites and apps.

Where it states <date> in the above proposed policy amendments, this will be 2 months after adoption of the Policy. Vehicle licence holders will have until this date to have operational card machines.

7. Remove the current cap on Hackney Vehicle numbers.

The proposal is to remove the current cap on Hackney Vehicle licence numbers. All new licences will be granted for Wheelchair Accessible Vehicles only and these licences cannot be transferred to a salon vehicle licence.

The Authority is aware that there is a shortage of available WAVs in the district which is causing adverse effects to wheelchair and disabled users in limiting their ability to travel. This matter has been highlighted recently by a petition consisting of 137 signatures.

Disabled people are particularly reliant on taxi and private hire vehicle services, either because they may not have access to a private car, are unable to use public transport, or because the built environment is insufficiently accessible to meet their needs. This means that the availability of an accessible, affordable taxi or private hire vehicle service can make a significant difference.

The Authority currently limits the number of hackney carriage vehicles to 154 and this limit has been in place since 2002. Of these 154 vehicles, 31 vehicle licences are allocated to Wheelchair Accessible Vehicles (WAV), which is just over 20% of the total vehicle fleet.

The Licensing team publish a list of WAV proprietors who have consented to their contact details being circulated. The majority of WAVs are concentrated in the Haywards Heath area servicing Haywards Heath Railway Station, resulting in a limited number of WAVs in other parts of the district.

As the Authority currently limits the number of hackney carriage vehicle licences, these have a market value which fluctuates according to demand. A removal of the limit may impact on this market and those who have privately invested in a licence from another proprietor.

An Unmet Demand Survey is carried out by an independent company every three years to assess whether the capped number of hackney carriage vehicle licences is meeting service demand. The last Unmet Demand Survey was completed by LVSA and published in December 2022.

The study's conclusions were:

On the basis of the evidence gathered in this Unmet demand survey 2022 for Mid Sussex District Council, our key conclusion is that there is no evidence of any unmet demand for the services of hackney carriages either patent or latent which is significant at this point in time in the Mid Sussex District Council licensing area. This allows the committee legitimately to retain the limit on vehicle numbers, and to do so at the present level if it so wishes. Further, this decision could be defended if challenged. Department for Transport Best Practice Guidance encourages a new survey within a three-year timeline. The present limit on vehicle numbers continues to provide benefit to the public in terms of stability and very good service.

The Department of Transport Best Practice Guidance takes a view on quantity restrictions:

The Competition and Markets Authority was clear in its 2017 guidance on the Regulation of taxis and private hire vehicles: understanding the impact of competition that:

Quantity restrictions are not necessary to ensure the safety of passengers, or to ensure that fares are reasonable. However, they can harm passengers by reducing availability, increasing waiting times, and reducing the scope for downward competitive pressure on fares. Most licensing authorities do not impose quantity

restrictions. The department regards that as best practice. Where restrictions are imposed, the department would urge that the matter should be regularly reviewed. The matter should be approached in terms of the interests of the travelling public:

What benefits or disadvantages arise for them because of the continuation of controls?

What benefits or disadvantages would result for the public if the controls were removed?

Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

Are there alternative ways in which the issue could be addressed?

If alternative measures could be used to achieve the same effect, then the department believes these should be used in preference to quantity restrictions. It has been observed that where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.

Over the years there has been considerable litigation in this area, but if a local authority has considered all relevant matters, it can at any time decide to delimit the number of hackney carriages.

It is therefore possible to delimit at any time and in respect of the type of vehicle, such as only permitting new vehicle licences to be issued to WAVs. To do so, relevant matters would need to be considered and consulted on:

- The financial impact on existing licence holders who may have invested in their licence.
- The potential of reduced custom for existing licence holders.
- Congestion on Hackney Carriage stands.
- Congestion on the roads generally.
- The benefits to the travelling public of additional vehicles.
- The opportunity for others to become involved in the trade as means of securing a livelihood.

Any proposals to delimit should be considered primarily on the basis of the interests of the travelling public, and wider consumer benefits and not, for example, simply from the perspective of the potential loss of value of the plates to the existing licensees. In other words, do the customers benefit from the existing limit, and will there be a negative impact on customers if the Council delimits?