

PUBLIC PROTECTION COMMITTEE: 7 December 2022

Report of the Head of Shared Regulatory Services

Proposal to Introduce Mandatory Card Payment Facilities in Hackney Carriages (Taxis)

1. Background

- 1.1 Under the Local Government (Miscellaneous Provisions) Act 1976, the Council may attach any conditions to the grant of hackney carriage and private hire vehicle licences that they consider reasonably necessary.
- 1.2 At present there are no policy or conditions in place that mandate the use of payment card readers in hackney carriages (taxis). Hackney carriage proprietors may choose to install a card reader in their vehicle but this is not mandatory.
- 1.3 The purpose of this report is to seek approval for the Licensing Manager to conduct a consultation exercise in relation to a proposal to introduce mandatory card payment facilities in hackney carriages licensed by Cardiff Council.

2. Proposal

- 2.1 It is proposed to carry out a consultation on adding the following conditions to the [Hackney Carriage Vehicle Licence Conditions](#):
 - The proprietor shall ensure that passengers are able to make payment via a debit card, credit card and contactless card payment.
 - The card payment system will be stored in a transparent plastic holder which will be affixed so that the card machine is always in prominent view of the customer.
 - The card payment system must be stored in the holder at all times when the driver is available for hire.
 - The proprietor shall ensure that all drivers of the vehicle are trained on how to use the card payment system and are aware that passengers must be able to make payment in this manner.

- Where a fault in the card payment system is identified, the proprietor must notify the Licensing Department and arrange repair/replacement within 48 hours.

3. Considerations

- 3.1 There are currently 746 hackney carriages licensed by Cardiff Council. Historically, cash payments were the preferred payment method for customers; however, in recent years this has shifted, and it is now common for people not to carry cash, relying solely on card payments or preferring to use Apple Pay or Google Wallet via their smartphone.
- 3.2 Card payments would lead to an easier and quicker method for customers to pay taxi fares, while stopping the need for customers to ask hackney carriage drivers to stop off at cash machines if they need cash to pay the fare.
- 3.3 Customers will not be left stranded if they are new to the city and are not carrying a bank card and are unaware that many Cardiff hackney carriages are cash only.
- 3.4 Card payment facility can be incorporated with hackney carriage apps which facilitate the use of a card payment through a smart phone application where customers are able to pay fares, this can be used by customers either by pre hiring or hailing off the street.
- 3.5 There are currently a number of certified card payment devices available to hackney carriage vehicle proprietors to purchase to be fitted in to the vehicle. Prices of these devices typically range from £19 for the card reader to a bundle package of around £200.
- 3.6 Transaction fees in respect of debit and credit card fees were abolished by the Government from 13 January 2018. This means that any customers using their debit or credit cards to pay fares in hackney carriages will not be charged any fees to use their cards. The customer will only pay the fare displayed on the meter.
- 3.7 Having a card payment facility for passengers would improve public safety for hackney carriage customers in Cardiff. Customers would not have the need to stop and use cash machines late at night.
- 3.8 This technology can be beneficial if a customer were to lose their cash and debit cards. The customer can if they wish use their smartphone device to pay a fare as if using a contactless debit card. This could stop the need for vulnerable people walking home at night and putting themselves in a potentially unsafe situation.
- 3.9 Payments are governed by the Consumer Rights (Payment Surcharges) Regulations 2012 (amended by the Payment Services Regulations 2017). The Regulations limit charges to consumers who are buying goods and services. It is

unlawful to impose surcharges on customers for using the following methods of payments:

- Consumer Credit Cards, debit cards or charge cards
- Electronic payment services ie PayPal
- Similar payment methods that are not card-based i.e. mobile phone based payment methods

- 3.10 Customers should not be charged any more than the amount which is displayed on the meter or the agreed fare. The pre-agreed fare cannot include any additional charge for using a debit or credit card payment. This does not apply to transactions using a corporate or business credit card.

4. Consultation

- 4.1 If members are minded to approve the recommendation, an external consultation will take place in line with the Department for Transport's Best Practice Guidance which recommends that local authorities consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers.

Therefore, it is proposed that the following groups will be consulted:

- Trade representatives from the Hackney Carriage Alliance/Unite the Union
- Groups representing equalities groups
- Cardiff Council social media post

The consultation will be open for 6 weeks.

5. Achievability

- 5.1 This report contains no equality personnel or property implications.

6. Legal Implications

- 6.1 Section 47 (1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence of a hackney carriage under the Town and Policies Causes Act of 1847 such conditions as the district council may consider reasonably necessary and section 47 (3) provides the

safeguard of an appeal for anyone aggrieved by any condition attached to the licence.

- 6.2 Within this report the general legal implications that have been raised are covered in the following legal advice that includes general legal considerations, the Well Being of Future Generations (Wales) Act 2015, the Equalities Act 2010, Human Rights and the Council's Public Sector Equality Duty & Socio-economic Duty.
- 6.3 All decisions taken by or on behalf of the Council must:
- a) be within the legal powers of the Council;
 - b) comply with any procedural requirement imposed by law;
 - c) be within the powers of the body or person exercising powers on behalf of the Council;
 - d) be undertaken in accordance with the procedural requirements imposed by Council e.g. standing orders and financial regulations;
 - e) be fully and properly informed;
 - f) be properly motivated;
 - g) be taken having regard to the Council's fiduciary duty to its taxpayers; and
 - h) be reasonable and proper in all the circumstances.

7. Equality Impact Assessment

- 7.1 The proposal has been screened for the potential impact on protected groups within the community and human rights. We do not consider on the basis of the above that a detailed Equality Impact Assessment is required for this proposal at this stage, but the position will be reviewed at the end of the consultation process.

8. Well-being of Future Generations (Wales) Act 2015 implications

- 8.1 The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.

In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2018-21: <http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf> When exercising its functions, the Council is required to take all reasonable steps to meet its well

being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

The well being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

8.2 An assessment has been carried out in consideration of the Cardiff Well-being Objectives. A summary of the implications from the assessment:

- Cardiff Grows in a Resilient Way
 - Taxis form part of the public transport network with environmental and economic benefits for the wellbeing goal of A Prosperous Wales
- Safe, Confident and Empowered Communities
 - Stakeholders within the taxi trade, the general public and other relevant groups will have the opportunity to consider the proposals and respond to the consultation

9. Financial Implications

9.1 The costs associated with the proposed consultation are anticipated to be minimal and will form part of the overall cost of licensing activity in the financial year.

10. Recommendation

- 10.1 It is recommended that members approve a consultation exercise seeking views on the introduction of mandatory card readers in hackney carriages. If approved, a subsequent report will be presented to this committee to present the outcome of the consultation.

Helen Picton
Head of Shared Regulatory Services

14 November 2022

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers:
[Hackney Carriage Vehicle Licence Conditions](#)