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AGENDA

Committee	PUBLIC PROTECTION COMMITTEE
Date and Time of Meeting	WEDNESDAY, 7 DECEMBER 2022, 10.00 AM
Venue	CR 4, COUNTY HALL - MULTI LOCATION MEETING
Membership	Councillor Michael (Chair) Councillors Kaaba, Bridgeman, Driscoll, Ferguson-Thorne, Gibson, Gunter, Jenkins, Lancaster, Palmer, Sattar and Shimmin

1 **Apologies for Absence**

To receive apologies for absence.

2 **Declarations of Interest**

To be made at the commencement of the agenda item in question, in accordance with the Members' Code of Conduct.

3 **Minutes** (*Pages 3 - 20*)

To approve as a correct record the minutes of previous meetings.

4 **Review of the Moratorium on Hackney Carriage Vehicle Licences** (*Pages 21 - 26*)

5 **Proposal to Introduce Mandatory Card Payment Facilities in Hackney Carriages** (*Pages 27 - 32*)

Davina Fiore
Director Governance & Legal Services

Date: Thursday, 1 December 2022

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PUBLIC PROTECTION COMMITTEE

27 JULY 2022

Present: Councillor Michael(Chairperson)
Councillors Kaaba, Driscoll, Ferguson-Thorne, Gunter and
Jenkins

17 : APPOINTMENT OF CHAIRPERSON AND COMMITTEE

The Committee RESOLVED to note the appointment of the Chair and Members of the Committee for the municipal year 2022 – 2023 approved by Council at its Annual meeting on 26 May 2022.

18 : TERMS OF REFERENCE

The Committee RESOLVED to note the Committee's Terms of Reference as approved by Council at its Annual meeting on 26 May 2022.

19 : APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Andrea Gibson, Jackie Jones, Abdul Sattar and Ashley Wood.

20 : DECLARATIONS OF INTEREST

No declarations of interest were received in accordance with the Members Code of Conduct.

21 : MINUTES

The minutes of the following meetings were confirmed as being an accurate record and signed by the Chairperson:

Public Protection Committee: 8 February 2022

Public Protection Sub Committee: 6 July, 10 August, 7 September, 5 October 2021 and 1 March, 5 April and 7 July 2022

22 : HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE FEES

The Committee received a report seeking approval for the new Hackney Carriage & Private Hire Vehicle Licences. The Committee authorised the current fees and charges on the following dates:

- Hackney Carriage & Private Hire Vehicle Licence – July 2018
- Hackney Carriage & Private Hire Vehicle Licence – July 2018
- Private Hire Operator Licences – July 2018

The report contained a summary of the existing and proposed fees, showing any differences in cost.

During the financial year 2020/2021 the government placed restrictions on the public including the taxi trade and local authority due to the Covid 19 pandemic. Consequence to this, the Licensing Department operated at a reduced capacity in some areas for example, enforcement.

In calculating the proposed new fees, the full surpluses from the year 2020/2021 have been taken into account.

Officers also highlighted changes to additional charges for driver knowledge tests, which have increased due to an increase in overheads.

The proposed fees were calculated using a toolkit developed by the Wales Licensing Expert Panel, which is used by all Welsh local authorities. The method used to calculate the fees and details of the figures were provided in Appendix B. Members of the Committee had no comments, and approved the proposed recommendations

The Committee noted that there was one written object had been received, which had been circulated. The objection was not deemed relevant within the Act.

Members were invited to raise questions or seek clarification on the issues raised:

- Members discussed the reasoning behind the current moratorium on the issue of granting Hackney Carriage licences and the fact that there is no legal mechanism to cap the issue of Public Hire licences. Welsh Government are still considering whether a change in the requirements is necessary.
- Members queried whether all authorities increased their fees and charges by the same amount. Officers advised that all authorities calculate the proposed fees using a toolkit developed by the Wales Licensing Expert Panel, the increase or decrease in fees would depend on the information input by the authority itself. It was noted that this was the first increase since 2018.
- Members sought information about the obtaining of licences in different authority area and were advised that unlike Hackney Carriages, Private Hire Licences can be obtained through a different authority area, although the company which any fare is booked through should operate within the authority area. Officers have seen that there has been an increase in Private Hire Licences and a decrease in Hackney Carriage Licences.

RESOLVED:

- (1) That the Committee approve the proposed licence fees outlined in the report with an implementation date of 12 September 2022;
- (2) That the Committee authorise the Head of Shared Regulatory Services to carry out the necessary public notice procedure; and
- (3) If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter come back before the next appropriate Committee meeting so that any objections can be considered,

modifications be considered, and a new date for the introduction of the variations can be set.

23 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 10.20 am

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PUBLIC PROTECTION SUB COMMITTEE

3 AUGUST 2022

Present: County Councillor Michael(Chairperson)
County Councillors Kaaba and Driscoll

3 : EXCLUSION OF THE PUBLIC

The following item is confidential and exempt from publication as it contains exempt information of the description contained in paragraph 14 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. The public may be excluded from the meeting by resolution of the Committee pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.

4 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

The Sub Committee was advised that complaints were received from two members of the public regarding the conduct of a driver. The complaints related to an incident when the driver was alleged to have refused to use the taxi meter and asked for a £50 deposit.

Members received representations from the Solicitor representing the Driver, stating that the driver had initially refused the fare but then asked for a £50 deposit as a precaution because the complainants were intoxicated and he had seen them argue with two other taxi drivers before approaching his car. He added that the driver had been a driver for 10 years, was married with 5 children, his wife doesn't drive and he wouldn't do anything to jeopardise his job just for extra money.

There were no questions to the driver at this point.

Members received representations from the complainants. Members were advised that 2 female customers had been to a concert, they had one drink there then after the concert they headed into the city centre and had one more drink. They then approached the taxi and the driver immediately said it would be £50 deposit. The complainants said they were not intoxicated, it was a work night, they had children at home. They told the driver that one of the women worked for the Local Authority and she asked for him to use his meter. She said he would not listen, he said no and repeated that he wanted £50 deposit. The women walked off and said they would be taking a picture of his badge and reporting him.

Members were then advised that the complainants approached another taxi who asked for £40 deposit, they refused and took a picture of his badge, this was included in the paperwork. They then approached another taxi who said he wanted 2 separate fares rather than them sharing. They refused and took a picture of his badge but this was too blurred to be in the paperwork. The next taxi they approached agreed to take them and to use the meter. The women advised this driver what had happened and he said it had become common

practice due the Uber etc. Members were advised that the trip had totalled £25 including a tip for both the women. The women added that they both have daughters and the are worried about them using taxis.

Responding to questions from the Sub Committee on the fare that took them home, the complainants clarified that the fare was £22 and they gave a £3 tip.

Responding to questions from the Sub Committee, the driver said he had been driving since 2012. Members asked if the driver has asked for deposits before as this is not normal practice and should be meter only. The driver said that he asks for deposits for fares outside the city.

RESOLVED – That the driver be suspended for 7 days for refusing a fare.

(2) Case 2

The Sub Committee was advised that a complaint had been received from a member of the public who was a wheelchair user, regarding the conduct of a driver. The complaint related to an incident when the driver was alleged to have refused to take the complainant in his wheelchair, with his brother.

Members received representation from the complainant, stating that they had approached a wheelchair accessible taxi close to the New Theatre, told the driver where they wanted to go and when they went to the back of the vehicle, he drive off. Sub Committee were provided with CCTV footage of the taxi rank at the time of the complaint.

Members received representations from the driver who stated that he had been flagged down by the New Theatre, a man approached him and mentioned going to Ely with his brother who was in a wheelchair. The driver said he told the man to go and get his brother, he waited for a long time but they didn't come. The driver claims that the man who approached him was swearing and he was frightened there may be trouble, he added that he did not speak to the wheelchair user. He added that he has been attacked and robbed previously so he is cautious.

The driver stated that he picks up disable drivers regularly, he regretted what had happened and apologised.

RESOLVED – That the driver be suspended for 7 days for refusing a fare.

(3) Application 3

The Sub Committee was asked to consider whether a driver was a fit and proper person to hold a licence after he had not disclosed a police caution on his renewal application. The Licensing Officer outlined the case and the driver was asked to explain the circumstances.

The driver explained that his father had taken three passengers to London, they were being investigated by the Police who went to the family home with a warrant to take the fathers car for a few days and the driver had obstructed the constable as he thought he was taking the car for good and it was his fathers livelihood.

At the police station the driver had asked if the caution would show on his file and whether he needed to declare it to the licensing authority and the police had advised him it would not show on his file. He stated if he had known he would

have declared it.

Responding to questions from the Sub Committee, the driver further explained the situation and explained that the police had apologised for not making the situation clear at the time and that there would be no further action taken against him.

The driver added that he had previously declared an offence on an application and he would have done so on this occasion if he had known it would show on the DBS check

The driver was remorseful and stated that he is a good person and taxi driving is his livelihood.

RESOLVED – That the driver receives a written warning for failing to disclose a police caution on his license renewal application. License renewal approved.

(4) Application 4

The Sub Committee was asked to consider whether a driver was a fit and proper person to hold a licence given that the Licensing Authority have been advised that Mr Hamad was subject to a conviction regarding consumer protection, unfair trading, hallmarking and Trademark offences. The Licensing Officer outlined the case and the driver was asked to explain the circumstances.

The driver explained that he had stopped taxi driving in 2019 and started work as a manager of a shop in Pontypool. He stated that his friend had brought tobacco and cigarettes from outside of the UK to sell in the shop. He had taken the good and a few days later, Trading Standards visited the shop to check the stock. They asked if the tax had been paid on the good when they were brought into the UK. The driver explained that he thought it had been but he then found that it had not. Trading Standards had taken the goods. The driver was taken to court in Newport he pleaded guilty and was fined. He had since resigned from the shop and has no connection to the business anymore.

The driver had declared the conviction on his licence renewal application.

RESOLVED – That no further action was required. Application renewal approved.

The meeting terminated at 11.45 am

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PUBLIC PROTECTION SUB COMMITTEE

7 SEPTEMBER 2022

Present: Councillor Michael(Chairperson)
Councillors Kaaba and Jenkins

1 : EXCLUSION OF THE PUBLIC

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2 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

The Sub Committee received representations from a complainant who alleged that a driver had failed to complete a journey, had attempted to overcharge them and had abandoned them in an unsuitable location.

The Sub Committee was advised that a group of 4 passengers entered a vehicle in the City Centre. The passengers were travelling to Newport with 3 stop on route. The driver requested £110 payment for the fare. However, after starting the journey the passenger learned that a group of friends that were travelling in another taxi were paying £60. The passengers determined that £110 was excessive and attempted to enter into dialogue with the driver.

The driver was not willing to negotiate and therefore the group of friends requested that the vehicle pull over in order to allow them to leave the vehicle. Upon exiting the vehicle it was alleged that the driver attempted to take money out of the hand of the complainant. The driver was 'irate' and intimidating. The passengers, fearing for their safety, gave him £10.

When questioned, the complainant stated that the group of friend had been drinking alcohol but were not intoxicated. The complainant disagreed with the driver's statement that he had taken the group to a cashpoint. The driver was also alleged to have provided false details to the complainant when requested.

The driver stated that the fee agreed at the point of entry was £60 but an additional £5 was added for each of the 3 stops on route. When the additional fees were requested the passengers became angry and abusive.

RESOLVED – That the hackney carriage/private hire drivers licence be suspended for 7 days for unacceptable conduct. The driver must also complete the SQA training course within 3 months.

(2) Case 2

The Sub Committee received representations from a complainant who alleged that a driver has refused to use a taxi meter for a fare. The Sub Committee was advised that the complainant has approached a taxi on a marshalled rank in the City Centre. The driver requested £40 payment in advance. The complainant stated that he was aware that drivers must use the meter for fares within the city's boundaries but the driver refused to do so. The complainant considered this to be common occurrence in his experience.

The driver denied refusing to use the meter. The driver considered that there was a misunderstanding around the estimated cost of the journey.

RESOLVED – That the hackney carriage / private hire drivers licence be suspended for 7 days for refusing to use the taxi meter.

(3) Case 3

The Sub Committee considered the case of a driver who had received a caution for sending a threatening message. The driver explained that he had become involved in a heated discussion with an individual known to him which resulted in him saying something unlawful on social media. The driver accepted that he had made a mistake and he regretted his actions.

RESOLVED – That the driver receive a written warning for non-disclosure of a conviction.

(4) Case 4

Members were asked to consider an application for a hackney carriage/private hire drivers licence from an individual who had received penalty points for using a mobile phone whilst driving. The applicant explained that he was working food delivery driver and his phone was used to accept work via an app. The phone was illuminated on the passenger seat when he was stopped by police. He has since purchased a cradle for the device. The applicant had no other convictions.

RESOLVED – That the application for a hackney carriage/private hire drivers licence be granted.

(5) Case 5

The Sub Committee received representations from a driver who had declared 2 motoring convictions for speeding. The driver was asked to explain the circumstances.

Members were advised that the first conviction came at the height of the Covid-19 pandemic prior to the vaccination roll out. The driver had passengers in the vehicle who were not complying with the covid safety requirements and he was concerned that he was at risk and his vehicle was contaminated. He was rushing to reach a safe place to disinfect his vehicle and there were no passengers in the vehicle at the time.

The second offence occurred when this vehicle was put on cruise control. He left the M4 and still had cruise control applied by mistake. The driver stated that as a result of his actions he has 11pts on his DVLA licence and he is now ultra-cautious due to the risk to his livelihood. He has had no further convictions for over a year and he was determined to continue with that.

RESOLVED – That the driver receive a written warning for motoring convictions.

(5) Case 5

The Sub Committee received representations from a driver who had receive a conviction for conspiracy to supply drugs. The conviction was not declared on the driver's renewal application.

The driver stated that during the course of his work he had transported people who were dealing drugs. The police charged him with being associated and implicated with the group due to evidence on his mobile phone.

RESOLVED – That the hackney carriage / private hire drivers licence be suspended for 6 months for a conviction in relation to conspiracy to supply drugs. The driver must also complete the SQA qualification within 6 months.

(6) Case 6

The Sub Committee received representations from a driver who had been involved in a road traffic accident in a taxi whilst being over the legal limit for alcohol. The driver explained the circumstances.

RESOLVED – That the hackney carriage/private hire drivers licence be revoked for a serious motoring conviction.

The meeting terminated at 12.30 pm

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PUBLIC PROTECTION SUB COMMITTEE

5 OCTOBER 2022

Present: Councillor Michael(Chairperson)
Councillors Driscoll and Ferguson-Thorne

1 : EXCLUSION OF THE PUBLIC

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2 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

The Sub Committee was asked to consider whether a driver was a fit and proper person to hold a licence. It was revealed on renewal of his licence that he had failed previously to disclose a conviction which occurred while he was licensed.

On renewal of his licence the driver declared a conviction under the Fraud Act. A Disclosure Barring Service check revealed a conviction dated 11 November 2021 relating to a failure to declare a change of circumstances for Council Tax purposes.

The driver was asked to explain the circumstances. The driver's representative stated that the driver had a friend who had recently become homeless. He came to stay temporarily with the driver, then the stay was extended to become a longer one intermittently between trips to Somalia.

The driver was not aware at the time that the arrangement was becoming a permanent one. When he became aware that he was in breach of Council Tax rules he pleaded guilty. He is currently repaying the Council Tax owed and relies on his job to pay.

As soon as he became aware that he should have notified the Local Authority of his conviction the driver sent an email detailing his guilty plea. This was confirmed by the Authority.

When questioned by members of the Sub Committee the driver explained that the homeless person he had accommodated was a single person, a taxi driver, and he stayed with the driver for around 10 months intermittently.

RESOLVED – That no further action be taken.

Councillor Driscoll declared an interest in the following item as a person was known to him. Cllr Driscoll withdrew from the meeting and took no part in the decision.

(2) Case 2

The Sub Committee was asked to consider whether a driver was a fit and proper person to hold a licence after a complaint was received that he entered and travelled in the wrong direction down a one-way street and gestured at a Cardiff Council Road Safety Officer using his middle finger. The incident was observed by a member of the public, the head teacher of a primary school who was welcoming children being delivered to the school by parents.

The Sub Committee received representations from the complainant. The complainant described how he was cycling to his work as a Road Safety Officer when he saw the driver in his taxi approaching the wrong way down a one-way street. He dismounted and captured a video image of the taxi turning round and returning back up the lane. As he passed him the driver made a rude gesture with his middle finger and told him to 'Get a life'. The member of the public had come over to where the Officer was and witnessed these events.

The driver was asked to present his account of the incident. He claimed that at the time of the incident in March there were no 'No Entry' signs at the beginning of the lane. As he drove down the lane he realised something was not right, so he drove slowly past the Road Safety Officer. A member of the public informed him he was travelling the wrong way down a one-way street. He carried out a 3-point turn in the road and returned in the opposite direction. As the weather was hot he wound down his window. The Road Safety Officer was running along beside his car. He could see the Officer had something in his hands but could not see it was a mobile phone. He thought he was under attack.

The driver stated that he was not dropping off a passenger but was passing through the area. He knew the area and had used the route before over the previous 12 years. He had recently come off a contract with Bad Wolf studios and had carried celebrities and High Court judges.

The driver denied having been sent emails and stated that they had been sent to the wrong address.

RESOLVED – That the driver be issued with a written warning regarding his conduct and reminded of his duties as a driver.

(3) Case 3

The Sub Committee was asked to consider whether a driver was a fit and proper person to hold a licence. On renewal of his licence the driver declared a motoring conviction for driving without due care and attention. The offence occurred in 2020, however the driver did not notify the Authority at the time instead waiting for renewal.

The driver was asked to explain the circumstances. The driver's representative stated that on the day of the offence the driver was approaching Coryton interchange at 1.30am in heavy rain. There were

roadworks and the driver accidentally drove the wrong way into a diversion. Realising his mistake, he attempted to turn around and return the way he had come but was stopped by Police. The offence was uncontested, he paid a fine and had 5 points placed on his licence.

The driver admitted that he had not declared the conviction at the time it occurred but had declared it on renewal of his licence. He stated that he was now aware of what was required of him in terms of notification of convictions but had not been aware at the time. He had held a licence for 30 years and not previously been convicted of any motoring offences. He had been a licenced driver for 6 years and had not appeared before the Committee previously.

RESOLVED – To issue the driver with a written warning regarding his conduct.

(4) Case 4

The Sub Committee was asked to consider whether a driver was a fit and proper person to hold a licence. On renewal of his licence it became apparent that a conviction was present for driving or allowing someone to use a vehicle uninsured for third party risk.

The driver was asked to explain the circumstances. The driver stated that he had not been driving a taxi or private hire vehicle at the time of the offence. He was working as a driver for a food delivery service and had previously been named on the company's insurance as a driver of the vehicle. The ownership of the company had changed and the new owner had stopped the insurance for the van. The driver was unaware of this and only discovered it when he was stopped.

It was revealed in the course of questioning that there was an error in the papers before the Sub Committee and that the correct date of the offence was 9 May 2022.

RESOLVED – To issue the driver with a written warning.

(5) Application 5

The Sub Committee was asked to consider an application in principle for the grant of private hire operator's licence. The driver had previously held a licence which had subsequently been revoked.

The Sub Committee was presented with a report summarising the driver's previous appearances before it and the circumstances surrounding them. These included a 6-month ban for 'totting up', a conviction for fraud against Cardiff City Council for claiming for transport services that were never carried out, and a conviction for plying for hire without a licence or insurance. They also included repeated refusals of applications for a Hackney carriage/private hire driver's licence. The driver accepted that the facts contained in the report were accurate.

The driver was asked to explain the circumstances. The driver stated that he had made several applications for a licence but they had all been refused. He had waited patiently for the necessary period to

elapse before applying again. He had studied and was fully cognisant with all the necessary information especially the law. He accepted in full his responsibility for his previous non-compliance. His offences were his fault and he offered no excuses for them. He assured the Sub Committee they would not be repeated

The driver stated that since losing his licence he had never been in trouble and had not been involved in any legal problems. He had been of good character for the past 7 years.

The driver stated that he had completed the necessary training for understanding and knowledge. The incident had been a lesson for him and had not been repeated. He was a better-informed person and posed no danger to the public. He had learnt a lot over the past 7 years.

The driver was questioned by members of the Sub Committee. He stated that at the time of his offences he was doing his job and did not focus. He had never had any such problems and never had any complaints from customers. He had already been punished for his offences.

The driver stated that at the time of his conviction for fraud he knew many drivers who did the same. He took responsibility for his actions.

The driver explained the circumstances behind his conviction for working without insurance. He had rented a car whose owner did not know the insurance had expired. He himself did not know the car was not insured.

The driver explained the circumstances behind his conviction for fraud. He had been contracted by the Council to transport children to and from school. He had given the job to one of his drivers and was unaware that they were not carrying out the work. When he was apprised of the situation he took responsibility.

The driver was challenged that the alleged job did not exist and that he had defrauded the Council out of a substantial sum. He had also hired a car without a licence. It was put to the driver that this demonstrated a wilful disregard for the law.

The driver responded that he was now aware of the law. It was put to him that he ought to have known the law from the start and that he had been twice caught acting as a taxi driver without a licence.

In response to further questions the driver confirmed that he had been running a taxi firm at the time of the fraud and stated that he had given the school jobs to other drivers employed by the firm. He confirmed that he had been disqualified for 6 months for speeding as a taxi driver. He stated that his licence had now been clean for 7 years.

RESOLVED – That the application for a private hire operator's licence be refused.

The meeting terminated at 12.00 pm

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**CARDIFF COUNCIL
CYNGOR CAERDYDD**

Agenda No.

PUBLIC PROTECTION COMMITTEE: 7 December 2022

Report of the Head of Shared Regulatory Services

Review of the Moratorium on Hackney Carriage Vehicle Licences

1. Background

- 1.1 The Town Police Clauses Act 1847 and the Transport Act 1985 give local authorities the power to grant and restrict hackney carriage licences. A Licensing Authority may impose a moratorium on issuing new hackney carriage vehicle licences (the moratorium). If they choose to do so they must show that there is no significant unmet demand for the services of hackney carriages.
- 1.2 Cardiff has had a moratorium on issuing new hackney carriage licences since 2010. This position was last reviewed in 2019, at their December meeting the Public Protection Committee resolved to continue the current moratorium.
- 1.3 At the time of writing this report there are 946 hackney carriage licences; however, 220 of these hackney carriage licences are on retention (commonly referred to as 'on hold'). Therefore, there are 726 hackney carriages that are actively licensed in Cardiff.
- 1.4 In its Best Practice Guidance the Department for Transport (DfT) recommends that if a council wishes to impose or retain a moratorium on the granting of hackney carriage vehicle licences, an independent survey should be undertaken at no more than three yearly intervals to assess the current levels of demand.
- 1.5 the Licensing Department have received a number of complaints from passengers unable to get hackney carriages and have found that the number of vehicle licences not being actively used has increased in recent years.
- 1.6 There are very few authorities in the UK that have a moratorium on the issuing of hackney carriage licences. Cardiff is the only authority in Wales that has such a moratorium in place.
- 1.7 In 2019 AECOM were commissioned by Cardiff Council to undertake an independent survey of Cardiff's taxi demand. The survey recommended that

there was no significant unmet demand and as a result the Public Protection Committee subsequently resolved to maintain the moratorium.

- 1.8 This report outlines the current issues around hackney carriage licensing and seeks approval to consult with the trade, public and other stakeholders on a proposal to remove the moratorium on new hackney carriage licences.

2. Current Issues

- 2.1 The Licensing Department have seen an increase in reports of hackney carriage drivers cherry picking and refusing short fares. It has also been reported nationally that there is a shortage of drivers in the trade since the Covid 19 pandemic.
- 2.2 The current moratorium on issuing new hackney carriage licences restricts new entrants into the hackney carriage trade unless they are able to purchase a hackney carriage vehicle already licenced in Cardiff and transfer it into their name. As a result, there is a secondary market in Cardiff for hackney carriage licences.
- 2.3 This secondary market may stifle those wishing to start their career as a self-employed owner/driver of a hackney carriage as they are required to pay a significant sum of money to purchase an older diesel vehicle before they can enter the trade. This takes money out of the trade that could be spent on improving the vehicle fleet.
- 2.4 A potential benefit of an open market for hackney carriage licences is that this would allow prospective licence holders to put a deposit down on a modern vehicle that they can licence themselves, rather than being required to purchase a hackney carriage vehicle above the market value for the vehicle due to it being licensed as a hackney carriage in a closed market.

3. Clear air agenda

- 3.1 The council has a commitment to improving air quality in Cardiff. To help support this commitment, the Welsh Government has funded an [Electric Taxi Scheme](#) which operates in 11 Welsh local authority areas and gives licensed taxi drivers the chance to trial a fully electric, wheelchair-accessible Nissan Dynamo taxi E-NV200 for 30 days and view the financial and environmental benefits of zero-emission vehicles.
- 3.2 Due to the moratorium in Cardiff, only those who already hold a hackney carriage licence, or rent a vehicle from a hackney carriage proprietor, are permitted to use the Electric Taxi Scheme. This position is unique to Cardiff in Wales and has led to very low take up of the Electric Taxi Scheme

compared to other areas. If the moratorium were removed, this would enable any licensed hackney carriage/private hire vehicle driver to take advantage of this scheme.

4. Legislation and DfT Best Practice.

- 4.1 Under section 16 of the Transport Act 1985 a local authority has a discretion, but no obligation, to refuse the grant of a hackney carriage vehicle licence if, it is satisfied there is no significant unmet demand for the service of hackney carriages, within the area to which the licence would apply. This discretion only applies to hackney carriage vehicles and cannot be used to restrict the number of hackney carriage driver's licences or private hire vehicle / driver's licences issued.
- 4.2 If the authority chooses to impose a moratorium on the issuing of hackney carriage licences, the Department for Transport (DfT) recommends an independent survey is conducted to assess the level of unmet demand.
- 4.3 It must be noted that a survey is only necessary to establish demand in an area if the Local Authority wish to limit the number of hackney carriage vehicle licences issued in their area. If an authority does not wish to limit the number of vehicle licences issued a demand survey is not necessary.
- 4.4 Any survey undertaken should also be kept up to date and be repeated every 3 years. Recent research indicates that a survey would cost in the region of £65,000.
- 4.5 In order to satisfy the prescriptive provisions of the Transport Act, before exercising this discretion, the Council must be satisfied that there is no significant unmet demand for the services of hackney carriages.
- 4.6 This does not mean that the Council must limit the number of hackney carriage vehicle licences issued, even if it is satisfied that demand is met. The effect of the 1985 Act is simply to prevent the Council from restricting the numbers for any other reason.
- 4.7 Any decision that Council makes about whether to place a limit on the number of Hackney Carriage vehicles or not could potentially be open to challenge by way of Judicial Review. Therefore the Council will need to ensure that it takes all factors into consideration. The decision that it is being asked to make is a discretionary one. The Court will be unlikely to intervene in the exercise of a discretion unless the decision making process is flawed. Any decision would have to avoid being "Wednesbury" unreasonable. This means that the Council will have to take account of relevant considerations,

not take into account irrelevant considerations, and come to a decision that a reasonable Council would reach based on the circumstances before it.

4.8 The Department for Transport Guidance referred to in this Report does not have statutory effect. This means that it is not something prescriptive that binds the Council. However, it would be highly unusual for a public body to depart from guidance from national government unless there were good reasons for doing so. In this case Government guidance suggests that a licensing authority's decision of whether or not to limit hackney carriage vehicles should be approached in terms of the interests of the travelling public. Clearly this factor must be taken into account. If Council were to depart from this non statutory guidance, it would have to carefully set out and record its reasons for doing so. If this were not done then, if the Council did limit, any interested party could apply for a Judicial Review of the decision alleging that the Council had failed to take into account a relevant consideration.

4.9 The Competition and Markets Authority (CMA) states that "quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles." "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. "

"The CMA takes the view that concerns around congestion, air pollution and enforcement costs can generally be addressed through measures less harmful to passengers' interests than quantity restrictions."

5. Consultation

5.1 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
- Members of the public via a post on Cardiff Council's social media feed directing people to an online survey

The consultation will be open for 6 weeks.

6. Achievability

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

7. Legal Implications

- 7.1 The decision of the Council to initiate a consultation on the unmet demand by passengers for fares with Hackney vehicles and the need for possibly more licenced hackney vehicles is a preliminary step. If the consultation does not support the unmet need to increase hackney licence numbers then the matter will not proceed any further. In the past the issue has been contentious and challenges to raise and also limit the number of licenced hackney vehicles have been made by way of Judicial Review proceedings by trade associations. The needs of the public and that of the trade will always differ.
- 7.2 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.
- 7.3 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 the 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.

8. Financial Implications.

8.1 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.

9. Recommendation

9.1 It is recommended that members approve a consultation exercise seeking views on the removal of the moratorium. If approved, a subsequent report will be presented to this committee to present the outcome of the consultation.

Helen Picton

08 November 2022

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

Background Papers:

- [Department for Transport - Taxi and private hire vehicle: best practice guidance to assist licensing authorities \(2022\)](#)
- [Competition and Markets Authority - Regulation of taxis and private hire vehicles: understanding the impact on competition \(2017\)](#)

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](#)