

PUBLIC PROTECTION COMMITTEE: 15 July 2020

Report of the Head of Shared Regulatory Services

**POLICY ON DETERMINING THE SUITABILITY OF PROTECTIVE SCREENS IN
HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

1. Background

- 1.1 Under the Local Government (Miscellaneous Provisions) Act 1976 (the Act), the Council may attach any conditions to the grant of hackney carriage (taxi) and private hire vehicle (PHV) licences that they consider reasonably necessary.
- 1.2 The Licensing Authority have received requests from taxi drivers, private hire companies and their trade bodies urging the department to push through greater in-car safety measures to guard against Covid-19 including the use of safety screens.
- 1.3 Condition 4 of the Hackney Carriage Conditions and Condition 5 of the Private Hire Vehicle Conditions states that “no fittings, except those approved by the Council shall be attached to the inside or outside of the vehicle”.
- 1.4 A draft policy has been produced, and approved by the Directors of Public Protection, detailing the requirements and approval procedure for the use of screens in vehicles. A copy of this draft policy attached at **Appendix A**.

2. Covid-19 and the use of Partition Screens in Vehicles

- 2.1 In Cardiff, as of 6 July 2020, there have been a total number of 2,251 confirmed cases of Covid-19 out of a local population of 366,903, this compares to a total of 15,890 confirmed cases in Wales. As of 26 June there have been 365 Covid related deaths in Cardiff. According to the Office of National Statistics, taxi drivers have one of the highest mortality rates of any other occupation in the UK.
- 2.2 It is understandable that licence holders will want to put measures in place in order to protect themselves from the transmission of Covid-19. However, this must not impact the safety or integrity of a vehicle.
- 2.3 Partitions screens provide a physical barrier between drivers and passengers in the vehicle. There has been an increase in interest of the use of screens

as a way of providing physical separation between drivers and passengers in order to reduce the transmission of Covid-19. There are some purpose built hackney carriages, such as the Peugeot E7 and London TX that are already fitted with partitions between drivers and passengers. However, this only makes up a small part of the overall fleet.

- 2.4 There is no evidence available that demonstrates that partitions in taxis or PHVs reduce the risk of transmission of Covid-19 infection. Partitions in taxis or PHVs do not provide a fully sealed compartment which completely separates the driver from the passenger. Therefore, whilst it is possible that partitions may reduce the risk of transmission of infection, the risk would not be eliminated entirely.
- 2.5 There is potential for screens installed in vehicles to affect the safety and integrity of the vehicle and its safety systems. The main areas of concern for officers is the potential for screens to adversely affect the side airbag operation of the vehicle, this is particularly for screen installations that use rigid materials fitted in place with nuts, bolts and rivets. It may also be an MOT failure if the screen significantly restricts the movement of the driver's seat.
- 2.6 Every vehicle that that is used on UK roads must receive a form of approval, for large volume vehicle manufacturers this is generally through the Type Approval process and for low volume importers or vehicle modifiers this is through Individual Vehicle Approval (IVA). Each approval provides confirmation that a vehicle design will meet specified performance standards - those based on EC directives and the United Nations Economic Commission for Europe regulations (UNECE).
- 2.7 There are various types of screens on the market, including flexible plastic screens that wrap around the driver and can be easily removed, to rigid polycarbonate plastic screens that have been attached by way of nuts, bolts and rivets to the seats or other interior vehicle trim.
- 2.8 In response to the requests from the trade to install screens in licensed vehicles, the Licensing Expert Panel, made up of representatives from the 22 Welsh local authority Licensing Departments, set up a working group in order to produce a guidance for Licensing Authorities to adopt, with the intention of harmonising the approach to the approval of screen installations in Wales.
- 2.9 The document produced has been approved by the Directors of Public Protection in Wales (DPPW). It is considered that the proposed policy in Appendix A provides guidance for the trade whilst ensuring that vehicles are safe for the travelling public.

- 2.10 To help ensure that any requests for screens are processed efficiently, it is recommended that the decision to approve a screen for use in a taxi or private hire vehicle be delegated to an Operational Manager of the Shared Regulatory Service.

3. Consultation

- 3.1 The draft policy was circulated with the Cardiff Hackney Carriage Alliance, who are the formal trade representatives of Cardiff. They provided a response to the policy and also suggested proposed guidelines for the Council to consider. Their response and proposed guidelines are attached at **Appendix B** and **Appendix C**.

- 3.2 The response from the Hackney Carriage Alliance to the proposed policy attached at Appendix C references the Individual Vehicle Approval (IVA) manual and the DVSA MOT testing manual. A summary of their response is below:

- The IVA manual does not refer to curtain airbags and obstructions, and the area of a vehicle that a screen would be installed is in an 'exempt area' of the test
- In the Driver and Vehicle Standards Agency (DVSA) MOT inspection manual there is no test for airbag obstructions.
- MIRA and VOSA [DVSA] do not test airbag obstruction, however the temporary screens are not placed in front of the curtain airbags as indicated in this section.
- There is nothing in the Road Vehicle Regulations Act 1986 or any of its amendments that cover temporary Covid-19 safety screen installations, there are also no comments on UK or EC legislation that covers temporary Covid-19 safety screens
- A self-employed person has the duty of care to ensure under the Health and Safety at Work Act 1974

- 3.3 Officers have contacted DVSA and MIRA HORIBA on the issues raised. DVSA have stated *"the installation of safety screens/barriers in a taxi or private hire vehicle is not part of the MOT test. However, such installations should be safely installed and made from suitable materials"*.

"In respect of the airbags, there is no suitable reason for rejection for an airbag not being able to deploy correctly because of a modification or obstruction, so this could not fail the MOT test. However, no modification

should be made to a vehicle that is going to adversely affect road safety or the crash worthiness of the vehicle.”

MIRA stated that as part of their test, if a vehicle is fitted with curtain airbags, vehicle proprietors *“must provide details of the curtain airbag deployment pattern, and its expected interaction with the partition. The screen must not impact on airbag deployment or performance. You may need to contact the vehicle manufacturer or the company who supplied your screen to obtain this.”*

The full responses received are detailed in **Appendix D** and **Appendix E**.

4. Achievability

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

5. Legal Implications

- 5.1 When considering any application for a Private Hire Vehicle Licence, the Council, in accordance with Section 48(a) (i) (iv) and (v) of the Local Government (Miscellaneous Provisions) Act 1976 shall not grant such a licence unless they are satisfied that the vehicle is suitable in type size and design for use as a private hire vehicle, safe and comfortable.
- 5.2 Under Section 47 of the Act the Council may attach to the grant of a hackney carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety comfort and design.
- 5.3 Under Section 48 of the Act the Council may attach to the grant of a private hire vehicle licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety comfort and design.
- 5.4 Licence holders may appeal any decision to refuse to grant a licence under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or a decision to revoke or suspend a vehicle licence under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 to the Magistrates' Court.
- 5.5 The Licensing Department sought external legal opinion. The contents of this report and the included policy are consistent with the advice received.
- 5.6 Other legal implications in respect of the manufacture of vehicles are found in the body of this report.

6. Equality Impact Assessment

- 6.1 A full Equality Impact Assessment has not been undertaken as there are no implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief; sexual orientation on this matter.

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

- 7.1 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>

7.2 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 have the opportunity to consider the proposals and respond to the consultation

8. Financial Implications

8.1 There are no financial implications for the Council arising directly from this report.

9. Recommendation

9.1 The Committee is asked to consider the details of the report and determine whether to:

- a) Adopt the Temporary Screens in Taxis and Private Hire Vehicles Policy detailed in Appendix A;
- b) To help ensure that any requests for screens are processed efficiently, it is recommended that the decision to approve a screen for use in a taxi or private hire vehicle be delegated to an Operational Manager of the Shared Regulatory Services.

Dave Holland
Head of Shared Regulatory Services

07 July 2020

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

Background Papers:

Google Summary data about coronavirus (COVID-19) and the response to it
IVA Manual
DVSA MOT Inspection Manual