

East Herts Council Report

Executive Report

Date of meeting: Tuesday 7 November 2023

Report by: Councillor Vicky Glover-Ward – Executive Member for Planning and Growth

Report title: Consideration of mandating card payment facilities in licensed vehicles

Ward(s) affected: (All Wards);

Summary

This report outlines a proposal to require vehicle proprietors to provide facilities to take card payments in licensed vehicles.

RECOMMENDATIONS FOR Executive:

- a) To review the proposed Policy to introduce a requirement to provide card payment facilities in all vehicles licensed by East Herts Council and make a recommendation to Council for approval.**

1.0 Proposal(s)

- 1.1 That the report is received by the members of the Executive and the consultation responses, comments made by Licensing Committee and draft Policy are scrutinised before a recommendation is made to Council for approval at the Council meeting on 13th December 2023.

2.0 Background

- 2.1 East Herts Council is an authority that grants licenses for hackney carriage and private hire drivers, vehicle proprietors and operators.
- 2.2 The key purpose of the hackney carriage and private hire licensing regimes is to ensure public safety. This proposed change will allow people more flexibility to pay for a hackney carriage or private hire vehicle and thus get to their destination.
- 2.3 It is proposed that the ability to take electronic payments is made mandatory due to the swift changes in how we all make payments. Work with the local licensing trade indicates that only 5%-6% of taxi licence holders do not already have facilities to take card payments: see Section 3 of this report. The pandemic accelerated an already growing trend towards electronic payments, with fewer people carrying cash. We need to ensure that our licensed vehicles are accessible to all, as they form a vital and safe form of transport for members of the public.
- 2.4 Non-payment is an ever-present risk for drivers; adding another method of payment helps to mitigate this risk. Under the proposal in this report, drivers would still be able to accept other forms of payment, including cash, but they would have to be able to take card payments if the passenger wished to pay in this way.
- 2.5 The statutory taxi and private hire vehicle standards issued by the Department for Transport (DfT) has a section which covers 'Changing licensing policy and requirements'. This section suggests that a pragmatic approach should be taken to the time scales for implementing changes in policy.
- 2.6 Given this view, it is proposed to give existing licence holders a period of three months from the decision being taken to implement the Policy for them being required to evidence compliance. This is considered more than adequate for the 5-

6% of the trade that don't already have card payment facilities.

- 2.7 Scrutiny by the Licensing Committee was sought with the consultation responses and proposed Policy wording being considered at a meeting on 25th October 2023. The comments and suggestions made by Licensing Committee are covered at paragraph 3.11. This scrutiny has resulted in the Executive Member for Planning and Growth making two amendments to the proposed Policy wording.
- 2.8 Should the Policy be implemented, then changes will be made to East Herts Council's webpages to inform customers of the changes and remind them of their responsibility to be able to pay for a journey regardless of the means used. Officers will also update the webpages to inform prospective licence applicants of the change and provide them with links to an updated handbook with the new Policy wording included.

3.0 Reason(s)

- 3.1 In March 2023, a short four question survey was sent to the whole East Herts licensed hackney carriage and private hire trade to gain some information regarding the use of card payment facilities in licensed vehicles. In total, 97 responses were received which equated to approximately a third of all licence holders at that time. The results of this survey are contained in **Appendix 'A'**.
- 3.2 The results showed that nearly 95% of the respondents already had card payment facilities in their vehicle and that nearly 55% thought it should be mandatory to have card payment facilities.
- 3.3 In early May 2023, all of the East Herts licensed hackney carriage and private hire trade were contacted and told that the formal consultation on mandating facilities to take card payments was open until 31st May 2023. The consultation letter, which went out via email or hardcopy, included the proposed wording for the Policy for consideration. There was

a link to an online survey that also had the full wording of the proposed Policy and details of which parts of the existing Policy would be amended if the change was implemented.

3.4 By 24th May 2023, only five responses had been received so all the licensed trade were contacted again to remind them that they only had seven days left in which to make their views known.

3.5 When the survey closed, a total of 34 responses had been received. Twenty-five responses were from the hackney carriage trade with the remaining nine being from the private hire trade. As part of Question 3, 'Do you agree with the proposal to make card payment facilities mandatory in all vehicles licensed by East Herts Council?', respondents were required to explain why they had given a particular answer. The consultation wording and survey results are contained in **Appendix 'B'**.

3.6 There were several issues raised in the respondents' explanations that are addressed below:

- *Network coverage:*

This is an existing issue that drivers are aware of, as highlighted in the driver's response. It is likely that if a passenger asks to go to a destination where reception is poor then the driver will be aware of the issue and can raise this at the start of the journey. Whilst the Policy would mandate having card payment facilities available, all other forms of payment would still be accepted.

- *72-hour time period to get card facilities fixed or replaced:*

This is brought up as a concern by several respondents so officers suggested that '72 hours' be replaced by 'one week' in the final wording of the Policy.

- *Will help to stop drivers picking and choosing jobs off taxi ranks:*

Anecdotally the Licensing Team have been told that drivers have refused short journeys due to not having card

payment facilities. The Policy should help to address this and drivers that claim that their card payment facilities are not working to avoid short journeys could face enforcement action.

- *What if a customer doesn't have enough money in his or her account.* Regardless of the chosen form of payment, it is always the passenger's responsibility to ensure that they have the ability to pay for their journey. Where a passenger cannot, or refuses to, pay for a journey, there is a variety of options open to the driver from simply driving the person to a cash point through to reporting the matter to the Police. This Policy does not change these options or create an excuse for customers not to ensure they can pay their fare.

- *There is a cost in obtaining the equipment and there are also fees. A while ago the regulations regarding card payment fees meant drivers cannot pass on this cost to customers.*

From both surveys it appears that 90-95% of the licensed trade have already invested in card payment facilities so there will be no additional cost to those individuals. If this was not economically viable then the take up would have been much smaller among the trade so far. Those that must invest in card facilities because of the Policy change should see the same benefits as those that have already made the change. The respondent is correct that a hackney carriage cannot charge an additional amount for accepting a card payment as they can only charge the meter fare.

- *I believe it's down to the individual to decide whether they want to take card payments, I don't think it should be a contributing factor as to whether you get relicensed. There is still a great need for cash, for the times when card readers aren't working either to having no signal in the area you're dropping off of if the system is down.*

This Policy does not mean that drivers will no longer be able to take cash. The intention is to increase the available

payment options not to move to *only* allowing card payments.

- *Drivers should be allowed to take a fee of £0.50 per transaction.*

Private hire vehicles and hackney carriages doing private hire work or taking a journey ending outside East Herts can set their own prices for a journey so the cost of taking a card payment can be included. As detailed above for journeys on the meter, the metered fare is the maximum that can be charged.

- *I do not believe that it should be mandatory, it should be an individual's choice, it should be up to each individual how they wish to run their business. This is not a health and safety issue, there are many taxis in the town that have that facility if you are worried about choice, should we mandate every taxi has a charging cable for every phone for convenience, should every taxi have a fridge in the boot for convenience. At what point do we draw the line, convenience leads to apathy, with the current climate of heading towards CBDC [sic] many people are concerned for the push for cashless society that will lead to the exclusion of swaves of society who for reasons out of their control can not get bank accounts much less debit cards. I am firmly against mandates on how one should run their business.*

The respondent does not believe that this is addressing a 'Health & Safety' issue, but officers contend that it is a public safety issue. Even in the other responses, drivers themselves have identified that people have been refused journeys due to a lack of card payment facilities. This is about giving every member of the public a better opportunity to get home safely in an East Herts licensed vehicle. It avoids the need to drive passengers to a cash point at their expense and giving those that wish to run off without paying an additional opportunity. Phone charging facilities and making a fridge available were raised but

neither is relevant to this Policy. The Policy does not stop people from paying a fare with cash or even push them towards card payments, it merely adds another option to the remaining 5-10% of vehicles that currently don't provide this. The Policy is inclusive and will not exclude people without cards or bank accounts from using licensed vehicles. Whilst the respondent believes the Policy is mandating how he runs his business, it is in fact being proposed to promote public safety and other than requiring him to offer a facility to his customers does not fetter his discretion to run his business how he wishes.

- *This shouldn't be made mandatory for Private Hire. I can understand it might be wise to make it mandatory for Hackney Carriage as they can be flagged down and passengers may only have cards on them. With Private Hire we are pre-booked. I explain to my customers at the time of booking that I take either cash or BACS payments which my customers are happy to do and all is arranged in advance, I have had no issue with not having card payment facilities. I feel it therefore shouldn't be made mandatory but up to the individual companies to implement this if they feel it necessary. Also its another monthly expense to have the facility for card payments. This business is hard enough without another expense!!!!:*

The respondent details the way in which his business operates successfully without card payment facilities and that his customers are happy to pay by cash or BACS. Whilst this might be the case with his particular business, the Policy will apply to all private hire businesses ensuring a consistent service to customers across the district. The cost of acquiring card payment facilities is addressed above and whilst it is an additional expense 90-95% of the licensed trade find it economically viable and it may encourage more customers to use this particular business in the long run.

3.7 The consultation responses show that 76% of respondents

were supportive of the proposed Policy and 94% already have card payment facilities.

3.8 In addition to the online survey, one Dual Driver licence holder and one Private Hire Driver licence holder emailed some additional comments to the Licensing Team. These are **Appendix 'C'**.

3.9 The Dual Driver raised four points which were:

1. cost to the trade: Card Payment facilities will cost drivers at the time of initial purchase and there is a fee for each transaction
2. network coverage: There are locations in East Herts where you get no signal and card payment facilities may not work
3. smartphones used for payment. Inability to pay fare at the end of a journey
4. it should be the passenger's responsibility to ensure they are able to pay the fare.

3.10 These are all points that were considered prior to the informal and formal consultations. They have been addressed in the points above raised by the respondents to the online survey.

3.11 During the Licensing Committee meeting held on 25th October 2023 the draft Policy wording and consultation responses were scrutinised. **Appendix 'D'** contains the comments from Licensing Committee and the Executive Member for Planning and Growth's responses to those points , including any subsequent amendments made to the Policy wording.

3.12 The final wording of the Policy to be recommended to Council for approval is contained within **Appendix 'E'**.

4.0 Options

4.1 There are several options that Licensing Committee can put to the Executive Member for consideration.

- 4.2 **Option 1** – Leave the current Policy unchanged (Not recommended). Having identified that the Policy will have a positive impact on public safety, which is the core purpose of the licensing regime, and on the licensed trade, this option is not considered appropriate. Whilst eight respondents said that card payment facilities should not be made mandatory the author of this report believes that those points have been addressed in this report such that they do not outweigh the benefits of the proposal.
- 4.3 **Option 2** – Endorse the amended Policy wording presented at Appendix E (Recommended). The Policy wording incorporates the Executive Member’s consideration and response to the Licensing Committee’s comments – as discussed in full in Appendix D. It is believed that the Policy as worded will promote public safety and have positive benefits for the licensed trade in East Herts.

5.0 Risks

- 5.1 Having identified that the Policy change would support public safety, failing to take appropriate action, could fail to promote public safety.

6.0 Implications/Consultations

- 6.1 Trade consultation was carried out twice:
- Informally in March 2023; and
 - Formally in May 2023.

Community Safety

Ensuring that passengers have as many ways to pay a fare as possible promotes public safety. By ensuring that all vehicles have card payment facilities in a society where carrying cash is becoming less common means that the public should always be able to get to their destination safely.

Conflict between drivers and passengers for non-payment should be less likely as there will be more ways to pay.

Data Protection

No

Equalities

Increasing the range of payment options is considered to have a positive impact on the travelling public, as discussed in this report. The proposed Policy will *not* oblige passengers to pay by card nor enable taxi drivers to refuse cash payments. This is vitally important as, although local information is not available, a report by the Bank of England published in October 2022¹ found that, payment by cash remains a valued form of payment for older people and those on lower incomes. Furthermore, the same study referenced a 2020 survey by the Financial Conduct Authority that found that 46% of the digitally excluded, 31% of those with no educational qualifications and 26% of those in poor health rely on cash to a 'great or very great extent'. Furthermore, some people with physical and cognitive disabilities report difficulties with card payments as, for example, some people's health or mental health render it difficult to remember a PIN.

Thus, the retention of cash payments alongside card payments will overcome any potential discrimination against people from groups with protected characteristics.

Environmental Sustainability

No

Financial

No

Health and Safety

No

¹ Knocked down during lockdown: the return of cash. Bank of England, 14th October 2022
<https://www.bankofengland.co.uk/quarterly-bulletin/2022/2022-q3/knocked-down-during-lockdown-the-return-of-cash>

Human Resources

No

Human Rights

No

Legal

Failure to implement any Policy in the correct way would leave the authority open to legal challenge.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

- 7.1 Department for Transport, Statutory taxi and private hire vehicle standards (25/22/2022):
<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards/statutory-taxi-and-private-hire-vehicle-standards>
- 7.2 Minutes of the Licensing Committee meeting held on 25th October 2023:
<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CIId=120&MIId=4245&Ver=4&J=2>
- 7.3 **Appendix A** – Licensed trade responses to informal consultation.
- 7.4 **Appendix B** – Licensed trade responses to formal consultation.
- 7.5 **Appendix C** – Other trade responses.
- 7.6 **Appendix D** – Consideration of comments from Licensing Committee.
- 7.7 **Appendix E** – Final proposed Policy wording.

Contact Member

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