

Officer comments

Many comments received from drivers relate to the additional financial burden this will place on them and suggested credit/debit card transaction fees either be charged to the customer or a minimum card payment spend be set and/or requested an increase in tariffs.

Following the UK Government's ban on 13 Jan 2018, it is unlawful to charge additional fees when someone uses a credit or debit card, meaning companies (including taxi drivers) must not pass on the fees for card payments or alternative (e.g. paypal) to customers. It is permissible, however, for companies to set a minimum spending limit before they accept a debit or credit card payment. This is common practice in many independently run retail outlets, such as corner shops or cafes. Generally, the limit is set at around £5.00. However, these are for fixed terminals, which attract an additional 20p per transaction fee on top of the % charged per transaction. Drivers would have mobile terminals, which only charge the % per transaction with no additional transaction fees. However, permitting a minimum spending limit for hackney carriage and private hire drivers, would not address our public safety concerns as passengers may then still be refused if they did not have cash to pay for their journey.

However, should Members wish to set a minimum spending limit for card payments it is recommended this be set at 'The Flag' amount - being the minimum cost of a journey as shown on the meter at the start of each journey (currently this is £3.00) and a clause included on the tariff card so that it is clear and transparent to drivers and the public. This will also be included on our website.

Instead, we recommend a review of the current tariffs, which were agreed by Members on 5 August 2022 following consultation with the trade. The MLTDA have already advised they will be submitting a request for a tariff review to assist drivers with their increases in the cost of living and the possibility of the implementation of mandatory card payment facilities and therefore this seems the sensible option. If authorised by Members, the review would need to be consulted on and any variation advertised in accordance with legislation. This however, will not be undertaken and results reported back to Members in time for any recommendation for card payments facilities to be put forward for Council approval in October. Therefore we recommend the policy amendment as below be agreed and recommended to Council for approval and authorise officers to submit a report to a future Licensing Sub Committee on this matter.

Card payment machines are portable devices. There are several proprietors that have a fleet of licensed vehicles they lease to licensed drivers. The previously suggested condition related to licensed vehicles and the enforcement action taken for failure of a driver to comply with this condition could therefore only be taken against the vehicle proprietor, which, following consultation and consideration of the responses, is felt is unfair and the responsibility for providing a card payment facility to customers should be the responsibility of the driver rather than the vehicle proprietor. Therefore, should Members agree to proceed with the policy change, the previous proposal to amend the policy to include a mandatory condition should be amended from the vehicle licence condition:

“Card Payment Machines

All licensed Hackney Carriage and Private Hire Vehicles must be equipped with a card payment system in accordance with the attached Guidance for Electronic Payment Devices

and replaced with a policy requirement to:

“Card Payment Machines

All licensed Hackney Carriage and Private Hire Drivers must provide a card payment facility in accordance with the Guidance for Electronic Payment Devices.”

Any breach of this policy requirement would then be dealt with under the Penalty Points system contained in the policy:

14.2 Penalty Points Scheme

14.2.1 Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service and ensure their safety.

14.2.2 The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, guidance, policy, licence conditions, codes or bye-laws adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by Council officers, in their application.

14.2.3 The Council has found that an effective means of applying the conditions is through a penalty points system. This acts as a first step in ensuring compliance with the conditions and serves as an “early warning” system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions.

14.2.4 It is believed that the penalty points scheme has assisted the trade in maintaining its high standards. The Penalty Points System does not however compromise the Council’s ability to enforce breaches of statute or local conditions in the Courts or by way of other interventions should an offence or breach of policy warrant such action.

14.2.5 Details of the penalty points system can be found in Appendix E.

Code	Breach of Hackney Carriage and Private Hire Licensing Policy	Maximum Penalty Points
<i>P54</i>	<i>Any other transgression not contained within the penalty points system which in the opinion of an authorised officer should have penalty points imposed</i>	12

Many other comments relate to Mobile data signal strength has improved considerably with the introduction of 5g networks and in general there has been a vast improvement of mobile data signals across the whole of Medway. If a taxi driver experiences any problems with their card payment device they should contact the provider of the card payment system as soon as possible in order to report the problem and rectify the issue. When reporting a problem, the card payment device company should be asked to provide confirmation that the problem has been reported and details of the appointment for the device to be fixed or replaced. The driver must then forward this information to the Licensing Team to avoid enforcement action being taken. Should any connectivity issues arise drivers should ask the passenger to try their card again. If the issue persists, ask the passenger if they have an alternative card or cash to pay for the fare or make alternative arrangements as happens now when a passenger does not have enough cash.

If there is a documented network-wide outage affecting many card payment devices, affected drivers should advise passengers card payments cannot be taken and why and advise passengers that cash payments can be taken and offer to take them to a cashpoint.

Recommendations

1. The Committee is requested to recommend to Full Council for approval the inclusion of the following requirement in the Hackney Carriage and Private Hire Policy:

“Card Payment Machines

All licensed Hackney Carriage and Private Hire Drivers must provide a card payment facility in accordance with the Guidance for Electronic Payment Devices.”
2. The Committee is requested to authorise officers to implement a review of tariffs in liaison with the MLTDA and submit a pre-consultation report to a future meeting with the proposals.