

**MINUTES OF A MEETING OF THE  
LICENSING AND APPEALS COMMITTEE  
HELD ON THURSDAY 22 MAY 2008**

**DURING THE ADJOURNMENT OF THE ANNUAL COUNCIL MEETING**

*Present:- Chris Bowring, Andrew Bradley, Mike Gore, Pauline Helliar-Symons  
Kirsten Miller, Denis Morgan, Barrie Patman, Patti Sherratt, Malcolm Storry,  
Claire Stretton, Pam Stubbs and Bob Wyatt.*

**1. ELECTION OF CHAIRMAN FOR THE 2008/2009 MUNICIPAL YEAR**

**RESOLVED:** That Barrie Patman be elected Chairman of the Committee for the 2008/2009 municipal year.

**2. APPOINTMENT OF VICE-CHAIRMAN FOR THE 2008/2009 MUNICIPAL YEAR**

**RESOLVED:** That Pauline Helliar-Symons be appointed Vice-Chairman of the Committee for the 2008/2009 municipal year.

**3. APOLOGIES**

Apologies for absence were submitted from Gerald A Cockroft and Kay Gilder.

**4. DECLARATION OF INTEREST**

There were no declarations of interest.

*These are the Minutes of a Meeting of the Licensing and Appeals Committee*

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**MINUTES OF A MEETING OF THE  
LICENSING AND APPEALS COMMITTEE  
HELD ON TUESDAY 20 JANUARY 2009 FROM 7:00 PM TO 7:50 PM**

*Present:- Barrie Patman (Chairman), Pauline Helliar-Symons (Vice Chairman),  
Chris Bowring, Gerald A Cockroft, Kay Gilder, Mike Gore, Kirsten Miller, Denis Morgan,  
Malcolm Storry, Pam Stubbs and Bob Wyatt*

*Also present:-*

*Tricia Harcourt, Senior Democratic Services Officer,  
Julia O'Brien, Principal Environmental Health Officer,  
Steve Richardson, Health and Protection Manager,  
Madeleine Shopland, Senior Democratic Services Officer*

**PART I**

**11. MINUTES**

The Minutes of the meeting of the Committee held on 10 June 2008 were confirmed as a correct record and signed by the Chairman.

**12. APOLOGIES**

Apologies for absence were submitted from Councillors Claire Stretton and Kate Haines.

**13. DECLARATIONS OF INTEREST**

There were no declarations of interest received.

**14. PUBLIC QUESTION TIME**

There were no public questions received.

**15. MEMBER QUESTION TIME**

There were no Member questions received.

**16. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY  
AMENDMENTS**

The Committee considered a report which sought its views on the revision of several aspects of the Hackney Carriage and Private Hire Licensing Policy in light of representations from drivers and operators in their specific circumstances and from operational queries resulting from the application of the policy.

The Committee were advised that some drivers had asked for more definitive guidance on what they should be looking for when buying wheelchair accessible Hackney Carriage Vehicles. It was noted that there were currently no national guidelines due to the difficulty in defining a 'typical' wheelchair. In light of this Members felt that it would be prudent to wait for the production of national guidance. Councillor Cockroft commented that not all wheelchairs would fit into current vehicles and questioned whether this would leave the Council open to accusations of discrimination. Julia O'Brien stated that the Access Officer had indicated that this should not be the case so long as the drivers did all they could to help the wheelchair user and that some compromise was needed in such cases.

The Committee examined the possibility of introducing restrictions to the age of Hackney Carriage Vehicles used. The Committee expressed concern that if age restrictions were introduced approximately forty licensed vehicles would need to be replaced. Some

Members felt that even with a two year grace period this might overburden drivers in the current poor economic climate. Members were reminded that all vehicles were required to pass a vehicle test and that as part of the existing policy the mechanics, appearance and condition of vehicles were checked on a six monthly basis. Julia O'Brien advised the Committee that if a vehicle failed its six monthly check the garage would inform officers and the vehicle would be taken off the road immediately. It was noted that enforcement checks were also carried out and that it was not just older cars that failed checks.

Mr Neale, owner of Christopher Cars had indicated that some of the policy requirements might cause difficulties for certain operators when wishing to use the same vehicles for weddings and private hire work e.g. proms. The Committee discussed this and other issues relating to classic cars and the policy raised by Mr Neale in correspondence to officers. Councillor Gore questioned whether there would be problems with insurance relating to classic cars without seatbelts transporting people.

#### **RESOLVED –**

- 1) That officers discuss concerns raised regarding classic cars and the Hackney Carriage and Private Hire Licensing Policy with the trade, draw up relevant proposals and report back to the Committee.
- 2) That it would wait for definitive guidance on Wheelchair accessible Hackney Carriages from the government, as and when it became available.
- 3) That the possible introduction of Hackney Carriage Vehicle age restrictions be re-examined in 12 months and that officers provide figures relating to how many vehicles had failed the six monthly checks.

#### **17. HACKNEY CARRIAGE TARIFF REVIEW**

The Committee received a report on the responses to the consultation on the proposed taxi licence fees for the next twelve months. It was noted that the bottom 3 lines of the Wokingham Tariff table in Appendix 2 should be omitted. The Chair reminded Members that the report dealt with what drivers would be charging their customers and that the Council did not receive any of this money. The Committee was provided with clarification regarding how the Council's position in the National League Tables Averages (Appendix 2) was determined. Clarification on how the hiring distance was measured was also given.

Disappointment was expressed that only sixteen hackney carriage drivers and two Private Hire operators had responded to requests for their opinion on whether or not there should be a change to the Hackney Carriage tariff. It was noted that when drivers had been asked for their opinion it was likely that fuel prices had been higher than at present. In response to Councillor Bowring's request for clarification regarding three of the driver's responses, Steve Richardson stated that the designation of 'change' or 'no change' had been provided by the drivers. Officers had taken their initial response and additional comments had not been interpreted.

**RESOLVED:-** That the current Hackney Carriage tariff remain, with a review in October 2009.

#### **18. SAFETY MARSHAL UPDATE**

The Committee considered a report which outlined the background to the employment of four Safety Marshals by the Council's Community Safety and Licensing Services, in

partnership with Thames Valley Police. The Marshals operated within and around Wokingham Town Centre over the Christmas period in order to help reduce levels of crime and disorder and to increase the feeling of safety for those using taxis late at night. In response to Members' queries the Committee were informed that the Marshals were all Security Industry Authority licensed and that Home Office funding that had been secured had covered their fees. Members noted that initial feedback had been positive and that they would receive an evaluation of the results of the information gathered before and during the exercise at a future committee meeting, once it had been collated by the partnership agencies. Julia O'Brien indicated that she had met with Hackney Carriage drivers, the Marshals and the Police as part of the evaluation process.

**RESOLVED:-** That the report on the Safety Marshals be noted.

#### **19. UPDATE ON BERKSHIRE WIDE MEMBER TRAINING**

The Committee received a verbal update informing it that changes to the Licensing Act 2003 and Gambling Act 2005 were due at the end of April. Julia O'Brien was investigating Berkshire wide member training. It was hoped that this would take place in April or May.

**RESOLVED:-** That the update be noted.

#### **20. HEARINGS UPDATE**

The Committee were notified that one hearing had been conducted since their last meeting in June 2008. The application to vary the premises licence of The Three Frogs Public House, London Road, Wokingham had been granted and modified, with the addition of further conditions.

**RESOLVED:-** That the decision be noted.

*These are the Minutes of a meeting of the Licensing and Appeals Committee*

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|                             |  |
|-----------------------------|--|
| <b>TITLE</b>                | <b>Safety Marshal Evaluation</b>   |
| <b>FOR CONSIDERATION BY</b> | Licensing and Appeals Committee on 25th March 2009   |
| <b>WARD</b>                 | None Specific  |
| <b>LEAD OFFICER</b>         | Julia O'Brien – Principal Environmental Health Officer, Licensing Service<br>Mark Moon - General Manager, Place and Neighbourhood Services |

#### **PURPOSE OF REPORT**

This report sets out the evaluation of information gathered before, during and following the recent safety marshal initiative run by Wokingham Borough Council Community Safety and Licensing Services, in partnership with Thames Valley Police, to employ four safety marshals to operate in and around Wokingham Town Centre over the Christmas period. The aim of the initiative was to bring benefits to Wokingham by reducing levels of crime and disorder and increasing the feeling of safety for people using Wokingham's evening economy and those traveling by taxi late at night.

#### **RECOMMENDATIONS**

The Committee is recommended to note the report.

#### **SUPPORTING INFORMATION**

At a previous meeting of this Committee in January 2009 Members received a report on the use of the safety marshals over the Christmas period and were informed that they would receive an evaluation of the results of the information gathered at a future committee meeting, once it had been collated by the partnership agencies.

Feedback from drivers, both verbal and written, was obtained by licensing officers whilst out working at the same time as the marshals and subsequently whilst undertaking routine enforcement inspections, by holding a meeting to which all drivers were invited to attend on 14<sup>th</sup> January 2009 and unsolicited individual representations from one driver and one operator on behalf of several of his drivers. Feedback received:

- Several of the drivers complained that the safety marshals had been over zealous in querying the status of their bookings i.e proof of whether or not they had one, and then moving them on too quickly.
- One driver complained that he felt discriminated against because he was moved on from places where other Asian drivers were apparently allowed to park
- A few drivers made comments that they found the marshals difficult to understand
- Several of the Asian drivers commented that they were appreciative that the marshals were Asian and thought they were doing a good job

A meeting of all the agencies, Thames Valley Police, Community Safety, Licensing and the marshal company was held on 9<sup>th</sup> January 2009 to gather feedback on the operation. Feedback included:

- Concerns that the safety marshals did not all have a good command of English which led to communication difficulties in what they were expected to do and actually did.
- The marshals appeared to disappear from where they were expected to be at certain times and some of the paper work was incomplete or in certain cases completely wrong.
- Part of the marshal's duties was to distribute information of which 582 articles were given out, and to record licensing infringements, of which there were 42 with 8 of these being reported as incidents to the Licensing Service. It must be said of these 8 none proved to be definitive enough for further action to be taken against the drivers. One of these infringements was forwarded to the police for further investigation. Of these infringements reported the ethnic mix was that 52% were Asian drivers and 31% white which the marshal company considered proportionate to the industry standard when comparing the representation between hackney carriage and private hire vehicles. The majority of hackney carriage drivers are Asian and it was the operation of the ranks which was the main thrust of the operation.

Thames Valley Police feedback was that they initially thought that they would be called on to help the marshals frequently but in fact were not called on at all and there was no disorder they had to deal with as a result of marshalling problems.

Thames Valley Police statistics show that over Christmas Wokingham had the lowest incidence in Berkshire for drink related problems, it is possible that the presence of the safety marshals contributed to this (reported in Wokingham Times 7<sup>th</sup> January 2009).

Feedback from the venues was generally positive in that the public were dispersed away from them in a timely manner with less opportunity for crime and disorder occurring.

The general attitude of the public was noted as being very supportive.

In terms of operational detail it was noted that the temporary signage used was too small and was not adequately secured, hence got damaged and in one instance stolen. This is something that would be addressed if they were required again.

It was also noted by all agencies that the drivers were being asked to do things they did not particularly wish to do – such as using a temporary rank in Wellington House when they would prefer to illegally rank in the Virgin Active area, or being moved on when illegally plying for hire, so it was to be expected that not all feedback received would be of a positive nature or that there would be an enthusiastic response by some to comply.

A meeting was arranged between the agencies and several hackney carriage drivers to try to pursue an alternative ranking area near the Virgin Active area which drivers would be happier to use. It is anticipated that this will be in Elms Road which is the preferred area for the drivers and is currently being considered. In the meantime there is an arrangement from the Police that they will not move taxis on if they park here waiting for fares.

It was decided to deploy the safety marshals again on Valentine's Day. On this occasion, following previous feedback, the foreman was changed for one who spoke better English and positive feedback was received from the police that this helped a lot.

Driver's feedback to the licensing enforcement officer when she queried how the evening had gone was that it was quiet but there were no adverse comments. The marshal company reported that the members of public were polite, responsive and communicative when approached, and that the Taxi Drivers were even more so. They did confirm that, apart from only a minor element, the vast majority of the drivers were compliant with the Safety Marshals requests, were polite and pleasant, extremely supportive of their efforts and very positive. A number were reported to have expressed a desire for a permanent scheme. Additionally several drivers have requested whether the marshals could be deployed in other areas of the Borough where there are currently issues

**Conclusion**

Whilst there were a few teething problems with the initial system it should be remembered that this is the first time such a scheme has been operated in Wokingham and change can be unsettling for many. Overall the scheme seems to have been well received by the public and accepted by the drivers in that we are trying to help them whilst contributing to the reduction of crime and disorder and increasing the feeling of safety for people using Wokingham's evening economy.

It was generally felt that the agencies had worked well together to support the initiative and lessons learnt from Christmas appear to have led to a smoother operation on Valentines Day. It is proposed to deploy the marshals again for St Patrick's Day to see how this operates. With the statistics showing a lowering of crime and disorder over Christmas the use of marshals could well have had a material part to play in this.

**Background**

Home Office funding was bid for and secured for this initiative.

**Analysis of Issues**

Scheme to reduce anti-social behavior and get the public home safely.

**Corporate Implications**

Scheme was grant funded and therefore has no impact on the general fund.

**Reasons for Decision**

Not Applicable

**Alternative Options considered, if any**

Not Applicable.

**Reasons for considering the report in Part 2**

Not Applicable

**List of Background Papers**

Police and Crime Standards Directorate Alcohol Related Partnership Activity Funding Bid – Reducing Alcohol Associated Offending Project

**Contact** Julia O'Brien

**Service** Licensing Service

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**Date** 5<sup>th</sup> March 2009

**Version No.** One

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| <b>TITLE</b>                | <b>Member Training Update</b>  |
| <b>FOR CONSIDERATION BY</b> | Licensing and Appeals Committee on 25th March 2009   |
| <b>WARD</b>                 | None Specific  |
| <b>LEAD OFFICER</b>         | Julia O'Brien – Principal Environmental Health Officer, Licensing Service<br>Mark Moon - General Manager, Place and Neighbourhood Services |

**PURPOSE OF REPORT**

This report is to update members on the proposed Berkshire wide training on amendments to the Licensing Act 2003 and the Gambling Act 2005.

**RECOMMENDATIONS**

The Committee is recommended to note the report.

**SUPPORTING INFORMATION**

Members of the Licensing and Appeals Committee have previously received training on the Licensing Act 2003 and the Gambling Act 2005 on both an internal and external basis. The external training was a Berkshire wide initiative organised by the Berkshire Licensing Liaison Group in June 2006 and May 2007 at the Magnet Centre, Maidenhead which allowed about 20 Members and officers to attend from each Authority. Feedback received from attendees was very positive in terms of content and value for money.

Various amendments to the two Acts have been proposed which are currently going through the legislative process. It was hoped that this would be completed so that the update training could take place in May – unfortunately however it would seem that some of the decisions have become somewhat protracted and it seems likely that it will be the summer before things will be finalized.

Following discussions with the other Berkshire Authorities and the training provider a provisional date of 4th November 2009 has been booked – so please keep the date free in your diaries.

**Background**

Statutory requirement for update training on legislation changes

**Analysis of Issues**

Various amendments made to the Licensing Act 2003 and Gambling Act 2005 require that member training be refreshed

**Corporate Implications (this must include Financial Implications)**

There is sufficient budget for this training as it is being funded from licensing income.

**Reasons for Decision**

Not Applicable

**Alternative Options considered, if any**

Not Applicable.



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| <b>Reasons for considering the report in Part 2</b> |
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| Not Applicable |
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| <b>List of Background Papers</b> |
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| Not Applicable |
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| <b>Date</b> 3 March 2009 | <b>Version No.</b> One |
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| <b>TITLE</b>                | <b>Hackney Carriage and Private Hire Licensing Policy Amendments – Classic Vehicles</b>  |
| <b>FOR CONSIDERATION BY</b> | Licensing and Appeals Committee on 25th March 2009   |
| <b>WARD</b>                 | None Specific  |
| <b>LEAD OFFICER</b>         | Julia O'Brien – Principal Environmental Health Officer, Licensing Service<br>Mark Moon - General Manager, Place and Neighbourhood Services |

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| <b>PURPOSE OF REPORT</b> |
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| This report sets out the outcome of initial discussions regarding concerns raised in relation to classic vehicles and their inability to comply with the provisions of the current Hackney Carriage and Private Hire Licensing Policy. |
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| <b>RECOMMENDATIONS</b> |
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| The Committee is recommended to consider the proposed amendments numbers 1 - 6 to the Hackney Carriage and Private Hire Licensing Policy in relation to the licensing in the particular circumstances of classic type vehicles and consider the proposed manner of defining them. |
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| <b>SUPPORTING INFORMATION</b> |
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| At a previous meeting of this Committee in January 2009 members considered a report in which Mr Neale, the owner of Christopher Cars, had indicated that some of the Hackney Carriage and Private Hire Policy requirements might cause difficulties for certain operators when wishing to use the same vehicles for weddings and private hire work e.g. proms. The Committee asked that officers discussed this issue and those relating to classic cars with the trade, draw up relevant proposals and report back to the Committee. |
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| Summary of points Mr Neale raised : |
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| <ul style="list-style-type: none"> <li>• The use of the same vehicles for weddings and 'private hire work' such as Proms</li> <li>• Requirement for vehicles to be fitted with seat belts – many classic cars do not have them fitted</li> <li>• The policy specifies seat sizes – many classic cars do not conform to these</li> <li>• The policy requires vehicles of a certain age to be tested every 6 months – Mr Neale makes the point that these vehicles are low mileage unlike the more traditional hackney carriage/private hire vehicle so would some exemptions be possible?</li> <li>• Many classic cars would not be able to pass the Hackney Carriage/Private Hire vehicle test, due to for example no seat belts etc – could these cars just have the</li> </ul> |
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government MOT instead?

- Even if a vehicle could be licensed as a Private Hire vehicle – it would always need to be driven by a licensed driver as per our policy – Mr Neale asks would there be a possibility for drivers doing only weddings not to be licensed?

#### Vehicle Usage

Legal clarification has been sought based on the questions Mr Neale raised. In relation to the use of vehicles for weddings, they are exempt from the private hire regime, (Town and Police Clauses Act 1976 section 75(1)(c)), however if they are used for birthdays etc. they would fall under the definition of a private hire vehicle and must be licensed as such, (Town and Police Clauses Act 1976 section 80). Once a vehicle is licensed as a private hire vehicle there can then be no deviation from the statutory requirements including that they be driven by a properly licensed driver under section 51 and operated by a licensed private hire operator. Essentially to answer the query of whether a vehicle can be used for private hire and weddings, although there is no reason why it cannot have dual usage once a vehicle is accepted as a private hire vehicle it would have to comply with the legislative requirements on all other occasions it is being used i.e a licensed driver to drive at all times.

#### Vehicle Licensing Policy

In order to be licensed as a private hire vehicle, a vehicle must be suitable and not of a design to lead a person to believe that they are in a hackney carriage, in a suitable mechanical condition, safe and comfortable and under appropriate insurance, (Town and Police Clauses Act 1976 section 48). This statutory standard cannot be avoided in any way. It is open to Wokingham to amend its policy in relation to classic cars as long as it does not fall below the statutory requirements of section 48.

#### Definition of 'Classic' Vehicle :

It is important to define what is meant by a classic vehicle to which any amended policy would apply. It is widely recognised that there is no simple definition of the type of vehicle that is meant by this term but Mr Neale is looking to include Badsworth, Bramwith, Beauford, Bentley S3, and Royale Windsor vehicles. These cars have the following attributes in common:

- Old style vehicle –pre 1950
- Very good condition
- Garaged when not in use
- Low mileage vehicles – possibly less than 2,500 miles a year
- 4 doors
- Carry minimum 4 passengers, maximum 7
- Often are not fitted with seat belts

It is proposed to use these parameters for the definition of classic vehicle with example types being the cars listed above, with the discretion to officers to allow for exceptions for vehicles that are generally recognized as being special in their era and that are suitable to convey persons in safety and comfort. In addition the term classic should possibly be widened to include Vintage, Classic and Replica Vehicles.

#### Proposals for amendment to policy for 'Classic' vehicles

1. Vehicles would be exempt from the vehicle specifications in the Hackney Carriage and Private Hire Policy – *so age, seat belt requirement and seat sizes*

would not be an issue

2. Seatbelt requirement – this is a potentially contentious area –cars that are not currently fitted with seatbelts are legally allowed on the road due to their age – opinions on whether they should be fitted in this instance vary and more views as a result of the consultation are sought.
3. The vehicle must be inspected and pass a standard government MOT every 6 months (rather than the more prescriptive Hackney Carriage/Private Hire vehicle test requirement) - *Cllr Gore felt this was especially important for older cars as lack of use may make them more liable to seize up and therefore regular maintenance and checks are important. Mr Neale accepted this opinion.*
4. Insurance should be specific for the vehicle to be used to include for hire and reward purposes.
5. Vehicles should have a private hire licence plate identification badge fitted internally to the front windscreen.
6. The vehicles may only be driven by a driver who holds a Wokingham Borough Council private hire drivers badge.

#### Consultation

Following any amendments made to the policy by the Committee it is proposed to consult widely with the trade for any comments they may wish to add before final adoption.

#### **Background**

Queries raised as a result of the existing Hackney Carriage and Private Hire Licensing Policy.

#### **Analysis of Issues**

Amendments to existing policy in the light of representations since its inception.

#### **Corporate Implications**

No financial impact on the council.

#### **Reasons for Decision**

Not Applicable

#### **Alternative Options considered, if any**

Not Applicable.

#### **Reasons for considering the report in Part 2**

Not Applicable

#### **List of Background Papers**

Hackney Carriage and Private Hire Licensing Policy -June 2008

|                                  |   |
|----------------------------------|---|
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| <b>Date</b> 11 March 2009        | <b>Version No.</b> One                      |