

**MINUTES OF A MEETING OF THE  
LICENSING AND APPEALS COMMITTEE  
HELD ON MONDAY 5 MARCH 2012 FROM 7PM TO 8.20PM**

*Present:- Barrie Patman (Chairman), Annette Drake (Items 31-37), Michael Firmager, Mike Gore, Mike Haines, Abdul Loyes, Ken Miall, Chris Singleton and Dee Tomlin*

**PART I**

*Also present:-*

*David Armstrong, School Place Planning and Support Team Manager*

*Yvonne Jones, Enforcement Officer (Taxis)*

*Julia O'Brien, Principal Environmental Health Officer (Licensing)*

*Manjit Preece, Senior Contracts Officer*

*Madeleine Shopland, Senior Democratic Services Officer*

**31. MINUTES**

The Minutes of the meeting of the Committee held on 10 January 2012 were confirmed as a correct record and signed by the Chairman.

**32. APOLOGIES**

Apologies for absence was submitted from Chris Bowring, Lee Gordon-Walker and Philip Houldsworth

**33. DECLARATIONS OF INTEREST**

Mike Haines declared a personal and non-prejudicial interest in item 41 Hackney Carriage Disabled Access Vehicle Review on the basis that his wife was a wheelchair user.

**34. PUBLIC QUESTION TIME**

There were no Public questions.

**35. MEMBER QUESTION TIME**

There were no Member questions.

**36. AMEND SCHOOL TRANSPORT APPEAL PROCESS**

The School Place Planning and Support Team Manager and the Senior Contracts Officer presented a report on a possible amendment to the school transport appeals process.

During the discussion of this item the following points were made:

- The Committee were informed that current School Transport Appeals process had resulted in inconsistencies for parents and Council Officers. Several very similar cases had resulted in differing results. Officers had considered whether any improvements could be made to the appeals process.
- It was proposed that a two stage process be established.
- At present parents had the automatic right to appeal to a Member Panel. It was important that appeals were only heard once the grounds for appeal were established.
- The Committee was asked to consider how the Council should deal with transport appeals when it is clear that they are outside of the policy and therefore less likely to be successful. This both raises the expectations of parents, and requires a considerable amount of officer resource. Cases that would fall into this category might include, for example the parents are seek a review of the safety of route or simply

disagree with the Council's Home to School Transport Policy. Under the first stage it was proposed that when an appeal forms was received, it be initially reviewed by a panel of three Officers, with the appropriate delegated powers to asses whether the appeal might fall into this category. If the Officers agreed, then the appeal is dismissed at that stage, with parents being offered the right of appeal to the Ombudsman. If there is no consensus, or it is decided that the appeal should be heard, then it will go forward to the next stage and be heard by the School Transport Appeals Panel. All other appeals would go forward to the School Transport Appeals Panel. School Transport Appeals made on the grounds of exceptional circumstances (e.g. Medical, social or welfare issues) would be dealt with in a more efficient manner within the two stage process as the Officers involved in the First Stage would have the delegated powers to award transport based on the merits of the application if appropriate. The Officers involved would be senior Officers and not necessarily those who were involved in the day to day transport process.

- Some Members questioned where the line was drawn with regards to exceptional circumstances. Councillor Miall asked what arrangements would be made for those whose designated school changed during their school career. The School Place Planning and Support Team Manager commented that Officers tried to write in some protection for those whose designated area school changed midway through their education. Councillor Haines commented that there were sometimes cases of genuine extenuating circumstances and that he would not want to see the types of appeals Members could consider filtered down too much.
- The Senior Contracts Officer emphasised that Officer had to administer policy.
- Currently appeals were heard by Panels of three members who were selected each time from a pool of members who had volunteered to hear appeals and who had been trained to do so. It was proposed that a pool of six Members be created and that three Members be selected from this pool for each hearing. The quorum for a hearing would be 3. The Panel would be politically proportionate and a Chairman would be elected at the start of the municipal year. Whilst it was appreciated that there would always be some degree of inconsistency it was hoped that the proposed approach would create greater consistency.
- Panel members would receive appropriate training.
- Appeal hearings would take place on set days each month to ensure the best use of Officer and Member time and resources.
- The Committee considered the arrangements put in place by other neighbouring authorities and other authorities across the country. The other Berkshire authorities had similar arrangements in place.
- The Committee felt that it would be helpful for School Transport Appeal Panel members to also be members of the Licensing and Appeals Committee. Sufficient training for the Panel was vital.
- Councillor Drake questioned whether local ward Members could be informed if an appeal was refused by the Officer panel. The School Place Planning and Support Team Manager commented that this would only be possible if the parents in question gave their permission.
- Members were reminded that parents could apply for transport for their child at any point throughout the year,
- It was noted that meetings would be held during the day.
- A number of Members felt that the Committee should be able to review in future what constituted exceptional circumstances and inconsistencies had decreased.

## **RESOLVED** That

- 1) The establishment of a School Transport Appeals Panel comprised of a pool of six Members be agreed.
- 2) the Committee recommends to Council, via the Constitution Review Working Group that the Licensing and Appeals Committee's Terms of Reference as outlined in the Constitution, be amended and that the terms of reference of the School Transport Appeals Panel as set out in Appendix A, be agreed subject to the following amendment.

### **8.7.1 Function and composition of School Transport Appeals Panel**

The School Transport Appeals Panel shall comprise **of a pool of** six Members of the Authority, appointed by the Council in accordance with the rules of political balance. A Chairman and a Vice Chairman will be appointed. The Executive Member with responsibility for School Transport shall not be a member of this Panel. **Members of the School Transport Appeals Panel will be drawn from the Licensing and Appeals Committee. Three members from this pool will be selected to hear each appeal.**

- 3) the proposed changes (highlighted in bold italics in Appendix B) to the School Transport Appeal Hearing Process be agreed.
- 4) the Committee agree to the introduction of a two stage School Transport Appeals Process as follows:

**First Stage** – Appeal forms are initially reviewed by Officers (three with the appropriate delegated powers) - those that are outside of the published criteria and/or are simply disagreeing with the decision without providing evidence to support a case will not proceed to Stage Two, and the parents will be notified. Parents will still have a right of appeal to the Local Government Ombudsman if they wish.

**Second Stage** – Formal Transport Appeal Hearing heard by School Transport Appeals Panel in accordance with the process as set out in Appendix B. The quorum for this Panel would be three.

## **37. HACKNEY CARRIAGE TARIFF REVIEW**

Members were reminded that Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to fix the rates for fares and other related charges in connection with the hire of Hackney Carriages. The Committee had agreed in March 2005 to review the taxi tariffs annually.

During the discussion of this item the following points were made:

- At the Committee meeting in January 2012, Members had resolved that the initial yardage remain at 880 yards and that each subsequent yard be reduced from 176 to 150 yards, be agreed, subject to no objections being received during the public consultation period. Members had understood that this would represent approximately a 5% increase. However, Officers when working on implementing the resolution were informed by the meter agents who programmed the meters that it would represent approximately a 10% rise. In light of this it was felt that the decision should be revisited.

- The Licensing Service had asked the meter agent what a 5% increase would equate to in yardage/time terms and were informed that it would represent a reduction in the initial yardage from 880 to 836 yards and each subsequent yardage from 176 to 167 yards and 40 seconds to 38. Whilst Members agreed that the tariff should be increased they felt that a 10% increase to the tariff would be too high and that a 5% increase was more reasonable.
- Councillor Singleton asked that Officers established where the Council would appear in the National League Tables Averages which was published in Private Hire and Taxi Monthly if a 5% increase be implemented as opposed to a 10% increase.

**RESOLVED** That the current tariff be increased by 5%.

### **38. HACKNEY CARRIAGE DISABLED ACCESS VEHICLE REVIEW**

The Council adopted a policy requiring that all new Hackney Carriage Vehicles licensed by it should be suitable for use by persons with a disability, primarily this relates to wheelchair access of the vehicle, in 2000, following the implementation of the Disability Discrimination Act 1995. The Committee were informed that at the time the Department of Transport had committed to producing a national definition of a wheelchair accessible vehicle. However, this had not been forthcoming due to the difficulty of defining a 'typical' wheelchair and thus dimensions required of a vehicle.

During the discussion of this item the following points were made:

- The Council had not prescribed what vehicle drivers must purchase to meet the required standard. Members asked what mechanisms were in place to ensure that drivers were able to load disabled passengers into the vehicles correctly. They were informed that from 2006 drivers were required to undergo training on securing ramps and loading and securing disabled passengers. Licensing Officers undertook checks prior to allowing vehicles to come on to the fleet, to ensure that following guidance from the Council's Access Officer in 2009, a 'standard' wheelchair and 'average' height person could be safely loaded and secured into the vehicle. Also any vehicle that has been modified or converted must have a Single Vehicle Approval (SVA) certificate obtained from the Vehicle and Operator Services Agency (VOSA). In addition Officers checked whether vehicles had the correct ramps and fittings when carrying out enforcement checks. If the checks were failed the driver could be issued with points.
- Hackney Carriage Drivers could choose what vehicle they choose to drive, within the broad guidelines so long as it had less than 8 passenger seats. Many of the vehicles chosen had been of the large MPV or 'people mover' type which tend to allow for a wheelchair and 6/7 passengers. One possible reason for choices made is to increase the maximum number of seats, making vehicles capable of carrying more than 4 passengers and therefore attracting a higher tariff.
- At the meeting of the Licensing and Appeals Committee in January 2009 Members had resolved not to change the policy until such time as and when definite guidance from the government became available.
- Several comments had been received regarding the requirement to have a Hackney Carriage fleet consisting of all Disabled Access Vehicles during the recent consultation on the Hackney Carriage tariff. A letter had been received from Mr M Al-Omari, signed in support by 46 drivers, which asked Members to reconsider the policy and queried the necessity of this requirement. Reasons for querying the requirement included the fact that large vehicles used more fuel and wheelchair users did not often come to the taxi ranks to get a taxi.

- The Committee were provided with information on the position regarding Hackney Carriage Vehicles and disabled access of the other Berkshire authorities.
- Members were notified that the Law Commission was currently undertaking a review of the existing framework of taxi and private hire vehicle regulation with a view to preparing proposals for consultation. They intended aim to publish proposals for reform in early May 2012 with a three month consultation period. It was anticipated that a final report and draft bill would be produced by late 2013.
- Some Members expressed surprise that all new Hackney Carriage Vehicles licensed by it should be suitable for use by persons with a disability, primarily this relates to wheelchair access of the vehicle. Members questioned how many vehicles had to be replaced before the anticipated publication of the Law Commission's findings. They were informed that 4 out of 104 vehicles were due to be replaced during this period.
- Whilst sympathetic to the drivers' views a number of Members felt that no changes should be made to the policy at the present period and that the Council should wait until guidance was issued by central government. They felt that drivers should be notified that the Council would take into account any changes to legislation and guidance as and when they were issued.

**RESOLVED** That the policy relating to Hackney Carriage vehicles and disabled access is left as it is until the Law Commission have completed their review as this may have cost implications on any decision made at this time.

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

*If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Team Support Officers.*