

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 25 JUNE 2019 FROM 7.00 PM TO 8.50 PM**

Committee Members Present

Councillors: Parry Batth, Chris Bowring, Rachel Burgess, Lindsay Ferris, Michael Firmager, Paul Fishwick, Jim Frewin, Emma Hobbs, Sarah Kerr, Abdul Loyes, Barrie Patman, Ian Pittock, Malcolm Richards, Rachelle Shepherd-DuBey and Bill Soane

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Suzanne McLaughlin, Public Protection Partnership Principal Officer
Sean Murphy, Public Protection Partnership Manager

1. ELECTION OF CHAIRMAN

Councillor Chris Bowring was elected Chairman for the 2019/20 municipal year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Abdul Loyes was appointed Vice-Chairman for the 2019/20 municipal year.

3. APOLOGIES

There were no apologies.

4. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 19 March 2019 were confirmed as a correct record and signed by the Chairman.

5. DECLARATION OF INTEREST

There were no declarations of interest.

6. PUBLIC QUESTION TIME

There were no public questions.

7. MEMBER QUESTION TIME

In accordance with the agreed procedure the Chairman invited Members to submit questions to the appropriate Members.

7.1 Councillor Andy Croy asked the Chairman of the Licensing and Appeals Committee the following question:

Question

What steps were taken to consult with taxi drivers regarding the most recent licence fee increase and how many responses were received?

Answer

The fee increase was consulted on in the normal way including the requisite notice placed in the local newspaper. This occurred on 26th December 2018 and again on 27th March 2019 on the Public Notices section of Bracknell News. The fees were also advertised on the Council's web site with the consultation period being from 27th March to 23rd April 2019.

They were considered at the meeting of the Licensing and Appeals Committee in the September 2018 and by the Full Council in December 2018.

According to Licensing and Appeal Committee report held on the 19th March 2019 it was confirmed that there were no objections to the fees as advertised in December and our records show no objections were raised following the second consultation period.

Supplementary question

Given that no responses were received, it seems to me that the consultation was not effective and not fair on taxi drivers. Do you think that there is scope for the Committee to put things back to where they were? And why don't we have proper consultation to ascertain the views of taxi drivers?

Supplementary answer

It was advertised as it was supposed to, but I do agree that we could have done better and I have been talking to officers about this and in the future I have suggested that we advertise by emailing taxi drivers, I think they have to do that in the future. I don't see how we can reverse the changes that have been approved by Council, unfortunately.

8. ISSUES RAISED BY THE TAXI TRADE

A response letter to taxi drivers from Susan Parsonage, Chief Executive Officer was circulated to Members.

The Chairman opened the item for discussion and the following comments were made:

- In relation to the age of vehicles, Members noted that the issue had been discussed and it had been agreed that existing vehicle licences would be allowed to continue up to 15 years, the 10 years rule would apply to new licences only;
- It was agreed that the consultation had not been effective and it needed improving, including contacting taxi drivers via email;
- Members were disappointed that the consultation had been advertised only in the Bracknell paper, they believed it should have included other papers in order to cover the whole Borough;
- The suggestion of emailing taxi drivers was welcomed. However Members pointed out that the consultation should reach the general public too, and as such a wider variety of papers should be used for advertising consultations;
- Members suggested the use of social media as well;
- Some Members questioned the validity of the consultation and suggested re-considering the decision;
- Members were interested to know how the representative from the trade had been selected for last year's Task and Finish Group;
- Councillor Burgess stated that she had raised a concern over the issue of the steep increase in fees back in November. At the time she suggested staggering the increase, but no-one had agreed to her proposal. She had also asked at the last meeting if there had been any objections to the consultation and was told that there were not any. She was of the opinion that the Council and this Committee could have dealt with this issue in a better way;
- It was understood that the reason for the steep increase was that Wokingham's fees had not increased for a number of years, and that the intention was to bring it in line with the other authorities in the PPP. However, some Members pointed out that it was not the taxi drivers' fault that Wokingham had not, over the years, reviewed its fees;
- Councillor Hobbs believed that it had been agreed by the Committee, around a year ago, that the Council would write to taxi drivers;

- Councillor Ferris stated that the fees had been presented to the Committee as a formality only, that the decision had already been made. He expressed concern that the increase in fees were having a financial harmful effect on taxi drivers, and he believed that the Council should be able to amend this decision. He believed that a Task and Finish Group needed to be set up as soon as possible to look into this issue. He also stated that in the future the Committee should be able to properly take part in the fee setting process;
- Sean Murphy, PPP Manager stated that the fee setting was part of the budget setting process for the joint PPP. Last year the fees were first discussed at PPP in September and then they were presented to this Committee in November for recommendation to the full Council in December. He believed that it would be a good idea to set up a Task and Finish Group to review the fees and also the tariffs as soon as possible, as the budget cycle had already started. The next set of fees would be discussed at the joint PPP meeting in September and would be brought to this Committee in November;
- Councillor Burgess asked that the consultation process be improved for the next cycle. She believed that this Committee could amend the fees for this year. Sean Murphy confirmed that the Committee had the ability to recommend to Council to change the fees mid-year;
- Sean Murphy stated that the consultation had been carried out twice in Wokingham. Members stated that this reiterated the fact that the consultation was being advertised in the wrong place.

After much discussion it was proposed and agreed that a Task and Finish Group would be set up to review the issues discussed at the meeting.

RESOLVED That:

- 1) A Task and Finish Group will be set up, as soon as possible, with representatives from the taxi trade, Members of the Committee and Licensing Officers;
- 2) The Task and Finish Group will review:
 - I. the fees and tariffs for next year
 - II. possibly adjust this year's fees and tariffs
 - III. the age of vehicles
 - IV. out of area operators
 - V. disability training
- 3) The Task and Finish Group will bring a proposal to the Committee.

9. LICENSING SUB-COMMITTEES COMPOSITION

The Committee considered the Licensing Sub-Committee Composition report which was set out in agenda pages 17-18. Luciane Bowker, Democratic and Electoral Services Specialist stated that the report proposed to remove the requirement that Licensing Sub-Committees be politically balanced. This change would strengthen the Council's position against potential legal challenges. Democratic Services would continue to make every

effort to convene Panels with Members from different political parties. However this was dependent on Member availability and therefore not always possible.

During the discussion of the item the following comments were made:

- Some Members agreed that it could be difficult to convene Panels and that achieving political balance was not always possible;
- Councillor Hobbs stated that such Sub-Committee hearings were not political;
- Councillor Pittock stated that there were enough Members in the Committee from other political parties to enable Sub-Committees to be composed of at least two parties;
- Councillor Burgess stated that the timings of Sub-Committees made it difficult for working Councillors to attend, she suggested setting up meetings either in the evening or late afternoon;
- Councillor Ferris stated that it had been difficult to convene panels in the past. He agreed that it was preferable to have politically balanced Sub-Committees. However on occasions this may not be possible and confirmed such meetings were not political;
- Some Members expressed concern over impact of holding Sub-Committees in the evening, in relation to Officers' working hours, the applicants' availability and potentially their legal representatives;
- Luciane Bowker confirmed that Democratic Services would continue to try and select a politically balanced Panel;
- There was no consensus over the issue of imposing or removing the requirement for Sub-Committees to be politically balanced.

Upon being put to the vote the majority of Members voted to approve the recommendation. Councillor Burgess wished it to be recorded that she had voted against the recommendation.

RESOLVED That:

- 1) The Committee agrees to recommend to the Constitution Review Working Group that the requirement for Licensing Sub-Committees to be politically balanced be removed; and
- 2) Every effort would to be made to select politically balanced Panels where possible.

10. GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY AND PRIVATE HIRE TRADES

The Committee considered the Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade report which was set out in agenda pages 19-68.

Suzanne McLaughlin, PPP Principal Officer presented the report. She stated that a consultation had been carried out and some responses had been received. She informed that the guidance document which had been produced by the Institute of Licensing (IoL) had been created by a selection of key Licensing Authorities and legal experts in the field. The Committee was being presented with the opportunity to adopt the guidance which was aiming to protect the people using the service and bring national uniformity in guidance.

During the discussion of the item the following comments were made:

- Sean Murphy stated that when looking at applications for licences, each case in was considered on its own merits;
- Councillor Soane stated that he had attended a Licensing conference where the guidance had been discussed. He stated that the guidance was produced in order to protect residents, the Local Authority and drivers. He was of the opinion that the guidance should be adopted;
- Some Members asked which other Local Authorities had adopted the guidance;
- Councillor Burgess was interested to know if Transport for London (TfL) had adopted the guidance;
- Suzanne McLaughlin stated she had made enquires to TfL and was awaiting a response; she had also made some enquires to find out what the uptake of the guidance by other local authorities was but had also not received responses. She informed that a similar paper had gone to Bracknell and West Berkshire. West Berkshire had approved it and Bracknell had asked for some minor tweaks.
- In response to questions Sean Murphy stated that the small tweaks requested were:
 - in relation to committing an offence whilst on duty (for example being in possession of drugs whilst driving on taxi duty), a longer period would apply;
 - the addition of a definition of what an offensive weapon was in law;
- Sean Murphy stated that some offences were new to the guidance, such as hate crime and modern slavery. The guidance intended to introduce a national standard to the test of a fit and proper person;
- Sean Murphy stated that he would do some research and report back to the Committee regarding the questions raised;
- Members stated that the blanks in the report were misleading. Sean Murphy stated that blanks were where the IoL had not stipulated a period, the expectation was to continue with the Local Authority's existing period on those cases. Members asked that the blanks be filled in;
- Councillor Soane reminded the Committee that each case would still be looked individually, this was only a guidance;
- Councillor Bowring pointed out that on page 40, under paragraph 4.5 it referred to 'basic DBS checks for vehicles'. However, vehicles were not subject to DBS checks;
- Councillor Bowring was interested to know how malicious complaints were dealt with. Sean Murphy explained that the guidance was in relation to convictions and not allegations;
- Councillor Hobbs seemed to remember that in the past the Council had decided that after 7 years of a conviction a licence would be issued;
- Some Members asked about the frequency of drug testing (referred to on page 45). Sean Murphy stated that it was up to the Committee to determine how often drug tests should be carried out;
- Members were interested to know more about what Bracknell and West Berkshire had decided as there should be some consistency with Bracknell and West Berkshire.

Members were generally in agreement with the guidance, and would like to review possible amendments with the information requested before making a final decision.

RESOLVED That the report would come back for a consideration at the next meeting.

11. DISABILITY AWARENESS TRAINING

The Committee considered the Disability Awareness Training report which was set out in agenda pages 69-75.

Suzanne McLaughlin stated that the report proposed the introduction of regular disability awareness training and refresher training. The report also included the consultation responses, there were 3 responses in favour and 8 against the proposal.

In response to a question Suzanne McLaughlin clarified that the proposal was in relation to all disabilities, not just wheelchair accessibility.

During the discussion of the item the following comments were made:

- Members noted that one of the respondents to the consultation did not understand that the term disability was not limited to wheelchair accessibility;
- The Committee was informed that not all hackney carriage vehicles in Wokingham were wheelchair accessible. This issue had come to light last year when a number of checks were carried out. It was decided by the Committee that those cars would be allowed to carry on operating, but that any new vehicle licences would only be issued to cars that were wheelchair accessible;
- Sean Murphy stated that the Local Authority intended to make this training as accessible as possible and reduce the burden as much as possible, he was aware of the cost implication;
- Members agreed that there was a moral obligation to be able to help disabled people to use the service provided by taxi drivers;
- In response to a question Sean Murphy stated that taxi drivers would not be required to go to Newbury for training, and that the service was looking at online options, particularly for refresher courses;
- It was agreed that it should be made clear that the training was for all drivers (not just hackney carriage drivers);
- Councillor Burgess asked if the cost of this training could be covered by the Council;
- Members were interested to know what TfL was doing about training for Uber drivers. Suzanne McLaughlin agreed to find out and report back.

It was generally agreed that training was needed, but more discussion about the best way to deliver and cost was needed.

RESOLVED That:

- 1) The training will be mandatory for all drivers;
- 2) The Task and Finish Group would discuss options around the delivery of the training and the cost.

12. ANNUAL REPORT

Suzanne McLaughlin presented the annual report which contained a summary of the work carried out by Licensing Service, the Licensing Committee and Licensing Sub-Committees over the last financial year, this was for information only.

Suzanne McLaughlin highlighted that the service had set itself a baseline for 2018/19 for the first time to issue licences within statutory timescales of five working days from receipt of a complete and valid application. The service achieved 58.7%. This would be reviewed in 2019/20, including the increase in resources required to improve this delivery percentage.

RESOLVED That the report be noted.

13. FORWARD PLAN

The Committee noted the forward programme and the items that were listed for the next meeting in September.

It was agreed that the Guidance on Convictions report would be included in the September agenda.

Councillor Burgess stated that the Committee had agreed to write to the government about issues around Uber. She asked if any responses had been received as a result of the letters. Offices agreed to find out and report back to the Committee.

Sean Murphy stated that taxi driver regulations were aimed at protecting the public and the trade. Members were in agreement with this statement.