

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 23 JUNE 2022 FROM 7.00 PM TO 8.44 PM**

Committee Members Present

Councillors: Peter Dennis, Beth Rowland (Chairman), Alistair Neal, Morag Malvern, Rachel Burgess, Sarah Kerr (Vice-Chairman), Bill Soane, Chris Bowring, Michael Firmager, Jackie Rance, Abdul Loyes and Shahid Younis

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Karen Court, Senior Licensing Officer
Keiran Hinchliffe, Service Manager for Licensing and Enforcement
Rachel Lucas, Legal Advisor
Ed Shaylor, Head of Enforcement and Safety

1. ELECTION OF CHAIRMAN

Councillor Beth Rowland was elected Chairman for the 2022/23 municipal year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Sarah Kerr was appointed Vice-Chairman for the 2022/23 municipal year.

3. APOLOGIES

An apology for absence was submitted from Councillor Mike Smith.

4. DECLARATION OF INTEREST

There were no declarations of interest.

5. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 2 March 2022 were confirmed as a correct record and signed by the Chairman.

6. PUBLIC QUESTION TIME

There were no public questions.

7. MEMBER QUESTION TIME

There were no Member questions.

8. TAXI AND PRIVATE HIRE DRAFT POLICY REVIEW

The report was presented by Ed Shaylor, Head of Enforcement and Safety and Keiran Hinchliffe, Service Manger for Licensing and Processing.

Ed Shaylor pointed out that this was the first meeting of the Committee since the licensing functions had returned to Wokingham from the Public Protection Partnership (PPP). He added that the transition had occurred smoothly from an operational point of view.

The report contained a draft of the Taxi and Private Hire Policy, it referred to the new government standards for taxi licensing in 2020. Work had been commissioned from a firm of solicitors called James Button to draft the policy, at the time of commissioning this had been for all the three authorities in the PPP. It was hoped that after the policy had been considered by Members and gone through the consultation process, that the policy

would be the same for all the three authorities; as the taxi service was used and provided across borders.

Having consulted with the Legal department, it was proposed to amend the second recommendation to read:

2) That the Director of Place and Growth in consultation with the Lead Member of the Executive be authorised to release the final revised policy for public consultation.

This proposed change was in line with the Council's Constitution and would facilitate the timescales, in line with the other local authorities.

Councillor Bowring asked for clarification as to which other local authorities we were looking to align Wokingham's policy with. Ed Shaylor confirmed that they were Bracknell Forest and West Berkshire, this was because those two boroughs had jointly commissioned the draft policy and were already working along the same lines. Due to timescales, it would be difficult to work with Reading or Windsor and Maidenhead.

Councillor Soane asked if the Executive Members for the three authorities would be regularly meeting to discuss this. Ed Shaylor stated that this was not currently arranged but agreed that this was a good suggestion.

Keiran Hinchcliffe explained this was a first draft of the policy. The intention was to gather feedback prior to it going out to consultation with the trade and members of the public. He highlighted the following proposed changes to the policy:

- The Department for Transport (DfT) recommended that licensing authorities make publicly available a cohesive policy document that brought together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards;
- In July 2020, the DfT issued Statutory Taxi and Private Hire Vehicle Standards. Wokingham already adhered to some of those standards in its existing policy. This was an attempt to nationalise vehicle, driver and operator standards;
- The trade was being updated on the likely new standards and procedures. They were being encouraged to sign up to the DBS subscription service. This subscription would allow the local authority to run a report to see if there were any changes to those DBS certificates, effectively making the system more robust;
- In relation to overseas convictions, certificates of good character should be obtained where an applicant had previously lived outside the UK for more than three months;
- In relation to conviction policies, all authorities should have a clear policy that took a particularly cautious view of any offenses against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of sexual nature and those linked to organised crime;
- All authorities should have a robust complaint recording system and take action if necessary;
- There should be mandatory safeguarding awareness training to all drivers. Training was already offered in Wokingham, the service was looking to bring the training in-house and make it more bespoke;
- All drivers should demonstrate proficiency in English language, be able to provide correct change for a fare paid in cash and produce a legibly written receipt upon request;

- In relation to enforcement, suspension and revocation of driver licences. The guidance clarified situations in which revocations and suspensions may be used. Drivers should be made aware of relevant policies;
- In relation to consultation, it was good practice to consult when proposing significant changes in local licensing rules. Consultation should include passengers and trade groups.

Ed Shaylor informed that the report contained a summary of the revised policy in appendix 2. He apologised that the formatting in the draft policy document itself was not as it should be, this was still being worked on at the time the agenda was published.

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

- Councillor Kerr stated that the summary was very helpful. She asked the following questions:
 - How did the local authority propose to help licensees to understand their duties in relation the Equality Act?
 - In relation to the proposal that licensees need to undertake a knowledge test every six years – is there a cost associated with undertaking this test? Why ask that this test is undertaken every six years, given that the knowledge of the area would improve after someone had been working for six years?
 - Page 8 of the policy seemed to be missing the list of providers;
 - Page 18 of the policy – why was advertising being restricted in this way?
 - Why were appeals going directly to court? Why was the internal appeals process not being used?
 - In relation to the consultation – there had been issues with the timing of consultations in the past, she would like to ascertain how the consultation would be undertaken this time;
 - In relation to the wording about Climate Emergency on page 18 of the agenda, could this be explained?
- Kieran Hinchcliffe stated that due consideration would be given to carbon neutral objectives at the time of the consultation;
- Ed Shaylor explained that there was an assumption that having more taxis could reduce the need for personal vehicle transport;
- Councillor Kerr stated that that was a big assumption which needed to be looked at in the context of the area;
- Officers confirmed that the consultation would be undertaken in time for it to be considered prior to the policy being adopted;
- In relation to the question about appeals, Officers agreed to review this in the draft policy;
- Karen Court, Senior Licensing Officer informed that the current proposal extended the right to advertising in vehicles, compared to the current policy;
- Councillor Kerr stated that advertising could be another form of income for drivers, and given the current cost of living crisis, this would be helpful;
- Ed Shaylor stated that consideration should be given to the corporate image of the Council in relation to vehicle advertising;
- Ed Shaylor informed that the list of providers was still to be included in the draft policy;
- Ed Shaylor agreed about the point made in relation to the knowledge test and would change it;
- In relation to the question about the Equality Act duties, Officers explained that hackney carriages were required to be able to accommodate passengers with

disabilities. Also, there were standards in relation to violence to woman and other vulnerable groups of people. Page 32 of the agenda contained a list of training which promoted the equality duties, and which had to be refreshed every three years;

- The Chairman asked if taxis would be able to take mobility scooters;
- Keiran Hinchcliffe stated that there were vehicles that could take wheelchairs and there were larger vehicles that could take non-standard sized wheelchairs. However, there were not many models that could accommodate non-standard sized wheelchairs, this was a complex issue;
- Councillor Burgess emphasised that the consultation was very important and wished to know more about how this was going to be undertaken;
- In relation to inspections, Councillor Burgess stated that the wording in the draft policy was a lot clearer than in the current policy. She wanted to know more about how inspections would be carried out;
- Councillor Burgess asked for more information about the proposed vehicle dimensions;
- Keiran Hinchcliffe stated that it was proposed that the consultation would be undertaken in line with the timing of the other local authorities consultations, he offered to bring back the proposed dates;

Subsequently, Officers have learned that the revised policy has gone as a draft to Bracknell Forest Licensing Committee and has been agreed with a few amendments; it would go to West Berkshire Licensing Committee on 4 July. It was then planned to put the draft out for consultation from 6 July to 28 September.

- Karen Court explained that the RAC inspections were for vehicles of a certain age, so that they could carry on. New vehicles had their documentation checked to make sure they met the requirements for wheelchair accessibility. The proposed dimensions contained in the draft policy had been suggested by James Button and were based on the Transport for London dimensions, they were more generous to the driver than the ones in the current policy;
- Ed Shaylor explained that transition arrangements would have to be in place so that current vehicles did not become non-compliant on the day of implementation of the new policy;
- In response to a question Karen Court informed that for older vehicles, when vehicles were first licensed, they were required to have a MOT test, and then at six months. As vehicles aged the requirement was for a test every 4 months under the new policy, and drivers had to cover the cost to do the test;
- Councillor Firmager commented that it was positive to have a more robust fit and proper test in the policy. He noted that were it said EC passport on page 29 of the agenda, this should be EU passport;
- Councillor Firmager asked for more information in relation to the knowledge test, including what the pass mark was;
- Karen Court informed that there was a list of roads and locations within the borough, and the driver would be asked how they would take a passenger from the pick up point to a certain road or location. There were 10 questions and the pass mark was 9;
- Councillor Firmager agreed that it did not make sense to ask drivers to re-take the test after six years, given that their knowledge of the area was likely to increase;
- Councillor Younis asked how wide the consultation was going to be? Given the fact that journeys were taken across the borough borders;
- Councillor Younis agreed that the taxi trade had faced difficulties in the last couple of years, and that allowing vehicle advertising for additional income would be a helpful to drivers;

- Councillor Younis asked for more information in relation to the English and numeracy test;
- Councillor Younis stated that DBS tests looked at past records, but they were not a predictor of future behaviour. He asked if there was another test to check that a person was fit and proper?
- Keiran Hinchcliffe explained that the change that was proposed in relation to the DBS check was that drivers were going to be encouraged to sign up to the update service. That would enable the local authority to find out quicker if a conviction happened to a licensed person. The fit and proper test also included looking at medical records and testing the English and numeracy of drivers;
- Karen Court recommended to set parameters for vehicle advertising, in order to ensure that they were appropriate;
- Councillor Kerr stated that the wording about advertising was confusing, some work should be done to make it clearer. She was of the opinion that the presumption should be that advertising was allowed, given some parameters;
- Ed Shaylor agreed that it was possible to allow for advertising, provided that it met national guidance and local guidelines;
- Councillor Younis added that discussions about advertising should also be undertaken with the other neighbouring local authorities for a consensus approach;
- Ed Shaylor confirmed that the other local authorities would be consulted, he added that a lot of information spread through social media;
- Councillor Younis was concerned that there was an assumption that social media could reach everyone, and that was not necessarily the case;
- Councillor Kerr was concerned that relying on social media only for consultation was not compliant with the local authority's equality duties;
- Councillor Soane suggested that the taxi trade may have a spokesperson who could help with the consultation;
- Councillor Loyes expressed concern that the draft policy had been drafted exactly the same for all three authorities, as the needs and demographics of each borough were different;
- Councillor Loyes asked who provided the training for drivers;
- Kerian Hinchcliffe explained that there were a number of providers who were used for training, for example the Blue Lamp Service. Thames Valley Police did not provide training. There was an ambition to bring training in-house;
- Councillor Loyes commented that there were immigrants in the borough who may be capable of driving, but would not be able to enter this industry as they could not speak English;
- Councillor Bowring noticed that the onus on applying for a licence renewal fell onto the driver (page 19 of the agenda). He pointed out that this was dependent on the time it took the local authority to process an application. He wondered if there was a reasonable timeline in relation to applying for a renewal and the licence expiring, he also asked if a driver was allowed to carry on driving whilst awaiting for an appeal;
- Councillor Burges pointed out that there was inconsistency within the policy about timelines (in page 35 of the agenda it said 30 days but in other places it said sufficient time);
- Keiran Hinchcliffe explained that if something very serious happened, there was the ability to revoke a licence immediately. He agreed to look and review the timescales with the legal department;
- Rachel Lucas, Legal Advisor stated that once an appeal arrived at the Magistrate's Court, it needed to be listed as a full trial. The courts were very pressed at this time, and did not consider taxi appeals to be a priority. Therefore, it could take a long time

for a taxi appeal to be heard and for that reason she believed that it was not possible to prescribe a reasonable time to re-apply allowing for an appeal to take place. She confirmed that ordinarily, pending an appeal, a driver would be allowed to carry on driving. Only under certain rare circumstances would drivers be asked to stop driving pending an appeal;

- Rachel Lucas pointed out that the draft policy seemed to take away the current provision for an appeal to go to a Sub-Committee before it went to the Magistrate Court, she added that there was no legal reason to take away the provision Sub-Committee hearings;
- It was suggested by the Chairman that the provision of Sub-Committee hearings be added to the draft policy, there was general agreement to this proposal;
- Councillor Bowring pointed out the point 13 (page 21) was similar to point 14, and these could be summarised;
- Councillor Bowring stated that there was no link between the Council and GPs. If a driver was diagnosed with type 1 diabetes, for example, how would the Council be notified?
- The Chairman informed that anyone who was diagnosed with type 1 diabetes had their driving licence revoked until their GP confirmed that they were fit to drive and reviewed by a doctor, and if the licence was taken away, the person had a duty to inform the DVLA;
- Officers informed that it was up to the GP's report to inform the local authority about the person's ability to drive;
- Karen Court explained that applicants were asked to obtain their medical clearance from their own GPs who had access to their medical history;
- Councillor Kerr asked how the local authority would be informed of a medical condition which prevented a driver from driving, outside of the time of application when a medical report was submitted;
- Keiran Hinchcliffe believed that it was one of the conditions of the licence, that if there were any medical changes, these had to be reported to the local authority. He added that the Committee could consider how often medicals should be carried out;
- The Chairman asked that this issue be raised with the solicitors who were drafting the policy;
- Councillor Dennis asked if there was any guidance within the policy about the storage of private operators vehicles, as he believed that there was an issue with vehicles being stored in inappropriate places;
- Councillor Dennis asked if there was anything in the draft policy that did not meet the DfT's recommendations or that went beyond the recommendations? He also asked what the cost was of drafting this policy;
- Ed Shaylor stated that this report had been commissioned a long time ago, he would find out how much it had cost and report back;
- Councillor Dennis asked if there should be any mention of Uber in the draft policy;
- Keiran Hinchcliffe explained that Uber was not an operator in Wokingham, however he offered to consult with them;
- Keiran Hinchcliffe confirmed that the draft policy met all the requirements of the 2020 government guidelines, and he believed that there were areas where it went further;
- Councillor Loyes asked Officers to look into ways to help Wokingham drivers in relation to their loss of business to drivers from Uber and other boroughs;
- Keiran Hinchcliffe explained that the Licensing function provided licences to drivers and operators, the issue of where the licences originated from and where their operational model was a strategic decision not within the licencing officers control.

Uber could operate legally in Wokingham, the only limitation was that they were not allowed to ply for hire;

- Councillor Loyes stated that Reading Borough Council had a system that stopped calls from Uber within their borough and wondered if Wokingham was able to do something similar;
- Kieran Hinchcliffe was not certain that such a system existed but agreed to check with Reading Borough Council;
- Keiran Hinchcliffe explained that the parking of vehicles by operators was regulated by planning;
- Councillor Dennis believed that there was a gap in the legislation in relation to parking in private roads. It was agreed that this would be discussed with Officers outside of the meeting and brought back to the Committee.

Members asked that the amended draft of the policy be circulated via email for comments before its submission to consultation. Upon being put the vote Members were in favour of the recommendations.

RESOLVED That:

- 1) The proposed changes as discussed during the meeting be incorporated in the draft policy;
- 2) Members will be sent a copy of the revised draft policy via email, prior to its submission to the relevant Executive Member and prior to it being submitted for consultation;
- 3) The final draft policy will be approved for consultation by the Executive Member for Environment, Sport and Leisure; and
- 4) The Director for Place and Growth should work in partnership with neighbouring Licensing Authorities to achieve a similar timeline to any public consultation and policy review in neighbouring boroughs, to achieve consistency of practice between areas.

9. TAXI LICENSING FEES AND CHARGES 2020/21

Ed Shaylor explained that this report was the result of a request by the Committee at its previous meeting, to review and reduce the fees for taxi and school transport operators for the current financial year (2022/23) and arrange refunds for the year 2021/22.

The report contained information about the proposal, which reduced the fee to £248 instead of £290. The background was that two years ago drivers were given a £40 reduction in fees in recognition of the difficulties brought by the coronavirus pandemic. In 2021/22 the reduction disappeared and the fee went back up to £290 plus a £2 inflation increase.

This Committee made a recommendation that the fees this year should be the reduced fee of £248 and this had been incorporated in the fees for 2022/23.

The report outlined the option of applying for a supplementary estimate to refund the drivers to give the reduced fee to those who paid the higher fee in 2021/22, as this had not been budgeted for. This equated to a refund of £42 to 211 drivers (around £8,500). This recommendation was subject to an Executive decision.

The report also outlined the practical difficulties in implementing this proposal.

The Committee was asked to consider if it wished to be consulted on fees and charges each year in respect to the following financial year before it went to Executive and Council.

Councillor Younis strongly believed that the proposal should be submitted to Executive for approval and he added that £8,500 was not a significant amount in the context of the Council. He added that this was a matter of principle.

Councillor Burgess agreed with Councillor Younis. She added that a proposal had been made by this Committee and it had not gone through the proper governance decision making process, which was not acceptable.

Councillor Burgess suggested that, in order to facilitate the administration of this proposal, the drivers that are still active be credited the £40 into their accounts, that would reduce the number of drivers that would have to be manually refunded.

Councillor Kerr agreed that drivers should receive the refund. She wished to emphasise that this situation, where the Committee's recommendations had not been taken to the correct decision-making process was not satisfactory. She added that if Legal advisors had been present at meetings, this situation could potentially have been avoided. She asked that Legal advisors be present at all meetings of this Committee going forward.

Councillor Kerr explained that this issue had only been picked up when the Committee had looked at the minutes of the previous meeting. She suggested that an action tracker of recommendations be produced to ensure that the Committee's recommendations are acted upon.

Councillor Bowring agreed that it was right to give the refund to drivers. He asked if it was possible to recoup the £8,500 from the 2023/24 budget.

Councillor Dennis suggested that if and when the Executive decided not to implement this Committee's recommendations, that an explanation be given for the reasons.

In response to a question, Ed Shaylor explained that this subsidy was for this financial year, and this year's budget did not include this refund. Therefore, a supplementary estimate had to be agreed by the Executive. A further complication was that licensable activities were supposed to be undertaken on a cost recovery basis, one activity could not subsidise another (it was not legal to recoup in the next financial year).

Ed Shaylor reassured Members that Officers would try to expediate this operation and give the refund back to drivers as soon as possible.

The Chairman asked to be kept informed about the process.

RESOLVED That:

- 1) The Committee notes that the reduced fees for taxi licences have been applied in 2022/23 as resolved by this Committee;
- 2) This Committee recommends Executive to apply the reduction relating to licence fees charged in 2021/22 and arrange refunds to applicants who paid the higher fees;

- 3) There will be a standing item of approval of fees and charges each year in respect to the following financial year before it goes to Executive and Council;
- 4) There will be Legal representation at all meetings of the Licensing and Appeals Committee; and
- 5) There will be tracker of recommendations as a standing item in the agenda.

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