

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 11 February 2016 commencing at
2:30 pm**

Present:

Chair

Councillor R E Garnham

and Councillors:

Mrs K J Berry, Mrs G F Blackwell, G J Bocking, Mrs J E Day, R D East (Substitute for H A E Turbyfield), A J Evans, R Furolo, A S Reece and R J E Vines (Substitute for Mrs R M Hatton)

LIC.18 ANNOUNCEMENTS

18.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.19 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

19.1 Apologies for absence were received from Councillors Mrs P A Godwin, Mrs J Greening (Vice-Chair), Mrs R M Hatton, Mrs A Hollaway, H A E Turbyfield, M J Williams and P N Workman. Councillors R D East and R J E Vines would be acting as substitutes for the meeting.

LIC.20 DECLARATIONS OF INTEREST

20.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

20.2 There were no declarations made on this occasion.

LIC.21 MINUTES

21.1 The Minutes of the Licensing Committee meeting held on 26 November 2015; the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 10 December 2015; and the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meeting held on 22 December 2015, copies of which had been circulated, were approved as correct records and signed by the Chair.

LIC.22 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICIES

22.1 The report of the Licensing and Systems Officer, circulated at Pages No. 15-109, proposed that the Council's Hackney Carriage and Private Hire Licensing Policy be re-drafted. Members were asked to approve the revised draft policy for a six week consultation.

22.2 The Licensing and Systems Officer explained that it was his responsibility to evaluate licensing policy and provide recommendations to the Committee as to

how they should be updated. There were currently five sets of policies, five sets of conditions and one set of bylaws governing hackney carriage and private hire licensing at Tewkesbury Borough Council. There had been various amendments to the policies and conditions over the last few years but they had not been reviewed collectively which had led to a lot of duplication which could cause confusion for applicants, existing licence holders, Officers and Members. If the matters outlined in the report were not addressed this could leave the Council open to legal challenges. The proposed revised Hackney Carriage and Private Hire Licensing Policy was attached at Appendix B to the report and a summary of the proposed changes had been circulated separately around the table. It was intended to update the policy in line with current legislation and best practice in order to ensure it was clear, fit for purpose and reflected the nature of local trade. Once the draft policy had been approved, it would be subject to a six week consultation and any responses received during that period would be reported to the Licensing Committee. The revised policy would then be recommended to Council for adoption.

- 22.3 The Chair indicated that it was very important that a review of the policies be undertaken. He had noticed several important amendments which had been made to the new policy including a requirement for English proficiency, safeguarding training, changes to medical conditions and proof of eligibility to work in the UK and he welcomed a single policy which was clear and concise as opposed to a large number of different policies and conditions. A Member queried why no maximum age was proposed for licensed vehicles and was informed that each Council could set its own limit. The majority of private hire vehicles within Tewkesbury Borough were for school contracts and had often been subject to a lot of modification in order to provide disabled access. Vehicles tended to last for a lot longer than they had previously and the Department of Transport recommended that an MOT test was sufficient to confirm the safety of the vehicle. No age limit had been imposed previously due to the nature of the local trade and it was considered that it would be too onerous for private hire drivers if one was introduced within the revised policy. The Member suggested that drivers should be required to carry out visual checks of their vehicles on a daily basis and to check the tyres etc. The Licensing and Systems Officer indicated that this was a condition which drivers were required to adhere to but was very difficult to enforce. He suggested that it could be included as additional guidance within the application form but he did not feel it should be included in the policy itself. Members indicated that they would welcome this inclusion.
- 22.4 A Member sought clarification as to what DSA stood for and was advised that, this acronym was no longer relevant and needed to be replaced with DVSA which was the Driver and Vehicle Standards Agency. This would be amended within the draft policy prior to consultation. A Member drew attention to the existing bylaws and questioned why they referred to 'he' as opposed to 'they'. The Licensing and Systems Officer explained that the bylaws had been adopted in 1978 and there was a lengthy legal procedure to try to amend them. He clarified that the standard for Plain English was to refer to 'they' regardless of whether it was single or plural. A Member noted that the current Hackney Carriage and Private Hire Licensing Policy stated that, when an applicant's first language was not English, the applicant may need to demonstrate that they had a basic standard of English speaking and understanding and she questioned if there had ever been a need to do this. The Licensing and Systems Officer confirmed that many applicants were from outside the UK which caused difficulties when the appropriate documentation could not be produced to prove eligibility to work in the UK. Some drivers had difficulty producing a certificate of residency and instead relied on Disclosure and Barring Service (DBS) certificates and a judgement had to be made in those instances; if the applicant was from the European Union then this was generally relied upon but, if it was another country, Officers would need to take a view.

- 22.5 A Member drew attention to Page No. 78, Paragraph 2.4 of the draft revised policy, which set out that Officers may request that work identified on the MOT test be undertaken before a licence was granted, or within a certain timeframe of the licence being granted. If vehicles were found to be in breach of licence conditions, Officers may require the proprietor to bring all licensed vehicles to the Council for inspection and he questioned whether this should be set out as a requirement for operators. The Licensing and Systems Officer agreed that this paragraph should be referenced within the operators section of the policy. A Member raised concern that it could be very difficult to tell that vehicles were taxis due to the amount of advertising. She was informed that private hire vehicles were permitted to have advertising all over and this was supported by case law. The policy did state that private hire and hackney carriage vehicles could not imitate one another; in some cities private hire vehicles had roof lights as well as hackney carriages and that could be very confusing. A Member queried whether the local authority had to inform the licensing authority before it used advertising on a licenced vehicle and was advised that there was no requirement to do so. If adverts were offensive or unsuitable then the licensing authority reserved the right to review. As an aside, the Licensing and Systems Officer explained that CCTV could be installed in licenced vehicles but must be used in accordance with the Data Protection Act 1998.
- 22.6 With regard to Page No. 80, Paragraph 2.1.4 of the draft revised policy, which set out that drivers and operators must inform Licensing Officers when a hackney carriage or private hire vehicle was involved in a road traffic accident, the Member suggested that 'however minor' should be added to the statement. The Licensing and Systems Officer clarified that minor accidents did need to be reported, from an insurance perspective as well as in relation to health and safety, and he undertook to make this amendment. A Member noted that it was proposed that the revised policy include a requirement to report accidents within three days and he queried whether this was too long. In response, Members were advised that three days was thought to be appropriate in case the accident happened at the weekend when the Council was closed or if the driver was required to go to the hospital etc.
- 22.7 In respect of Page No. 84, Paragraph 3.8 of the draft revised policy, which referred to relevance of convictions and cautions, a Member questioned whether something should be added to points a) - e) about patterns of offending or repeat offences. The Licensing and Systems Officer advised that this was covered in assessing whether the applicant was a 'fit and proper' person to hold a licence; regardless of whether convictions were spent or unspent, there was a need to fulfil this criteria. Page No. 96, Section 2 of Appendix B of the draft revised policy, referred to novelty vehicles and it was suggested that additional examples be provided as to what this covered, for instance, a fire engine was a licenced vehicle within Cheltenham Borough. The Licensing and Systems Officer indicated that novelty vehicles used to be quite common but now tended to be less prevalent, nevertheless he would be happy to make this amendment. A Member noted that the specification for novelty vehicles set out that vehicles must carry a spare wheel and he raised concern that many new vehicles had a repair kit instead of a spare wheel. The Licensing and Systems Officer confirmed that this was a specific requirement for novelty vehicles which may be unfamiliar and therefore repair kits may be unsuitable. It was noted that Page No. 90, Paragraph 4 of Appendix A of the draft revised policy, stated that hackney carriage vehicles must carry 'a spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the Council'.
- 22.8 With regard to a query as to the location of an operator base, the Licensing and Systems Officer provided clarification that the locations where an operator made

provision for taking a booking must be within the boundaries of the licensing authority. Drivers working for the operator could live anywhere and customers could make bookings with any operator; changes to legislation also meant that bookings could be passed to operators in other districts or boroughs.

22.9 Having considered the information provided it was

RESOLVED

That the revised draft Hackney Carriage and Private Hire Licensing Policy be **APPROVED** for a six week consultation subject to:

- an amendment to the operators section of the policy referring to Paragraph 2.4 of the policy which stated that Officers may request that work identified on the MOT test be undertaken before a licence was granted, or within a certain timeframe of the licence being granted. If vehicles were found to be in breach of licence conditions, Officers may require the proprietor to bring all licenced vehicles to the Council for inspection;
- amendments to change the acronym 'DSA' to 'Driver and Vehicle Standards Agency (DVSA)' throughout the policy;
- an amendment to Page No. 80, Paragraph 2.14 – Accidents to state that 'Drivers and operators must inform Licensing Officers when a hackney carriage or private hire vehicle is involved in a road traffic accident, *however minor*';
- an amendment to Page No. 96, Appendix B, Section 2 , Novelty Vehicles to cite 'fire engine' as an example of a vehicle which may fall into the 'special event' category; and,
- the additional guidance within the application being amended to recommend that drivers undertook a daily visual inspection of their vehicle.

LIC.23 SEPARATE BUSINESS

23.1 On a proposal from the Chair, it was

RESOLVED

That, under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LIC.24 SEPARATE MINUTES

24.1 The separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 10 December 2015, copies of which had been circulated, were approved as a correct record and signed by the Chair.