

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 16 June 2016 commencing
at 2:30 pm**

Present:

Chair
Vice Chair

Councillor R E Garnham
Councillor Mrs J Greening

and Councillors:

G J Bocking, Mrs J E Day, A J Evans, R Furolo, Mrs P A Godwin, Mrs R M Hatton, A S Reece,
H A E Turbyfield, M J Williams and P N Workman

LIC.3 ANNOUNCEMENTS

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

LIC.4 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4.1 Apologies for absence were received from Councillors Mrs G F Blackwell and Mrs A Hollaway. There were no substitutions for the meeting.

LIC.5 DECLARATIONS OF INTEREST

5.1 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.

5.2 There were no declarations made on this occasion.

LIC.6 MINUTES

6.1 The Minutes of the Licensing Committee meetings held on 11 February and 17 May 2016 and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 4 February 2016, copies of which had been circulated, were approved as correct records and signed by the Chair.

LIC.7 REVIEW OF HACKNEY CARRIAGE TARIFF

7.1 The report of the Licensing and Systems Officer, circulated at Pages No. 7-11, asked Members to conduct the annual review of the hackney carriage tariff. It was recommended that the current tariff be renewed until 31 July 2017.

7.2 Members were informed that Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allowed a District Council to fix and vary a table of fares for

hackney carriages in the area. There were four hackney carriage vehicles in operation in Tewkesbury Borough. The current tariffs, attached at Appendix A to the report, had come into effect on 18 July 2014. The Licensing and Systems Officer confirmed that there had been no significant changes in the last 12 months which would affect the tariff and no complaints from members of the public. All licensed proprietors and drivers of hackney carriages in the Borough had been contacted in March 2016 inviting them to make suggestions regarding the amendment of the current tariff; no responses had been received from the proprietors and this was taken to mean that they were happy with the current tariff in operation. There had been no increase in the fuel prices in the South West region since the tariff was last reviewed and the consumer price index, the Government's target measure of inflation, was at 0.03% in April 2016.

7.3 Having considered the information provided, it was

RESOLVED That the current hackney carriage tariff be renewed until 31 July 2017.

LIC.8 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

8.1 The report of the Licensing and Systems Officer, circulated at Pages No. 12-55, informed Members of the outcomes of the consultation on the revised draft Hackney Carriage and Private Hire Licensing Policy. Members were asked to recommend to Council that the draft policy be adopted.

8.2 The Chair indicated that some private hire drivers may have applied to Tewkesbury Borough Council for a licence as, historically, it had been viewed as a 'soft touch' compared to other licensing authorities. He did not feel that this was the case and the Licensing and Systems Officer explained that the criteria around being defined as 'fit and proper' was being tightened within the revised policy, for example, through the introduction of a language test. In addition, the Borough Council was the first local authority within Gloucestershire to introduce safeguarding training for its drivers and to consider social services information alongside the Disclosure and Barring Service (DBS) certificates and driving records of applicants. He explained that the perception may partially be due to Tewkesbury Borough Council having no vehicle age limit within its policies whereas neighbouring authorities such as Cheltenham Borough and Gloucester City Councils did impose limits. The main reason for this was that a lot of the private hire drivers within the Borough provided school transport and many drove modified vehicles to carry disabled passengers. There was a significant cost associated with this and it was not felt that it would be fair to impose an age limit which would mean those vehicles had to be replaced, provided they were still roadworthy. The Legal Adviser indicated that, from a legal perspective, the Council's licensing policies were robust and would be made even stronger if the proposed revisions were approved.

8.3 On 11 February 2016, the Licensing Committee had approved the revised draft Hackney Carriage and Private Hire Licensing Policy for a six week consultation. The consultation had commenced on 18 March 2016 and had been published on the Council's website. Letters had been sent to all responsible authorities and neighbouring authorities, as well as licenced drivers and operators, inviting them to take part. Members were advised that a QR code had been included on the letters which, when scanned, took the consultee directly to the consultation and this had been very well received. Five responses had been submitted during the consultation, all of which were from the taxi and private hire trade in the Borough. The responses were attached at Appendix B to the report.

8.4 The Chair indicated that a Licensing Sub-Committee meeting had been held earlier that day and had brought to light a potential issue within the draft policy. He

explained that, with regard to major traffic offences, the policy currently stated that more than one conviction would require the application to be referred to the Licensing Sub-Committee for a decision; however, the Sub-Committee had felt that this was insufficient as offences of this nature should result in the application being determined by the Sub-Committee. It was therefore agreed that Appendix E, Paragraph 9, be amended as follows:

Major traffic offences

1. ~~Isolated convictions, without disqualification, for a major traffic offence should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence but will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one.~~ Any conviction for a major traffic offence within the last two years would require the application, or an existing licence holder, to be referred to the Licensing Sub-Committee for a decision. No further application would normally be considered until a period of three years free from convictions has elapsed. Where an application has been refused, or an existing licence holder suspended because of this provision, they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

- 8.5 With regard to the comments that had been received during the consultation, the Licensing and Systems Officer indicated that it was not proposed to make any significant amendments to the revised policy and he undertook to go through each one in turn to explain how they had been considered by Officers. The first consultation response made reference to the language test and whether this was necessary for private hire drivers given that they were under the control of their operator and were equipped with communication and guidance systems. The Licensing and Systems Officer explained that there was an expectation that licensed drivers should have good communication skills in order to converse with their passengers. Furthermore, without a basic knowledge of the language, it could be difficult to communicate any safeguarding issues with the local authority and there was often a reluctance to report any other matters if there was a language barrier. He clarified that the test was a basic speaking test and did not involve any writing. In response to a query, Members noted that, whilst there was no intention to introduce a reading test, drivers did have to have certain skills in order to pass the mandatory safeguarding training. This was not discriminatory as it was in the interest of public safety for drivers to have a basic understanding of the English language. There were no set criteria for assessing someone's speaking ability and, as such, that would be considered on a case by case basis. A Member queried whether a hackney carriage or private hire driver's licence would be granted to someone with an international driving licence. The Licensing and Systems Officer explained that applicants were required to hold a Driver and Vehicle Licensing Agency (DVLA) licence for at least three years. An EU licence could not technically be refused but it would only be valid for one year so the applicant would be required to convert to a DVLA licence. Clarification was provided that the DVLA oversaw the process for issuing licences; the Licensing Authority would not be advised whether the licence had been converted.

- 8.6 The first consultation response also made reference to vehicle testing and suggested that an MOT valid for one year was sufficient for vehicles over five years

old. The Licensing and Systems Officer clarified that there was no charge for vehicle testing; drivers could take their vehicle to any MOT testing station, there was no specific Council owned or operated garage. The draft policy set out that vehicles over six years old would be required to undertake two MOT tests each year; this was important as taxi vehicles tended to cover significantly more miles than normal cars and, as there was no age limit for vehicles, it was important to have assurance that vehicles were roadworthy at all times. The consultation response also suggested that more leniency should be taken with people who had been prosecuted for drink driving offences. The Licensing and Systems Officer advised that drink driving was a very serious offence with potentially devastating consequences and needed to be treated as such. Notwithstanding this, it was very rare that an application would be refused outright; applicants would have the opportunity to appear before the Licensing Sub-Committee and explain the circumstances surrounding their convictions.

- 8.7 The second response made reference to Paragraph 2.8 which stated that security and CCTV was allowed, however, in Paragraph 16 it stated that the Council had to be notified when such equipment was installed. The Licensing and Systems Officer indicated that a slight amendment to Paragraph 2.8 was proposed to provide greater clarification as follows:

Paragraph 2.8 Security and CCTV

There is no mandatory requirement for CCTV system in the licensed vehicles. Operators and drivers may install such equipment with prior written notification being supplied to the Council. Use of CCTV must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance. **No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the Council.**

- 8.8 The consultation response also mentioned that the section regarding insurance made clear that the vehicle could only be used for work whilst being driven by a licensed driver, however, it was believed that the vehicle could previously be driven at any time by the licensed driver e.g. socially. The Licensing and Systems Officer explained that this was a misconception and had never been allowed. There was case law from 1997 where the judgement had been quite clear that only licensed drivers could drive licenced vehicles. In response to a query, Members were advised that removing the licence plates was an offence and would render the insurance invalid. This issue had been debated in parliament as there were a number of insurance and public safety consequences. The final point within the consultation response related to the taxi ranks within Tewkesbury Town; Members were informed that this was governed by County Highways and was not something which could be addressed within this policy.
- 8.9 The third consultation response raised concern that drivers now had to renew their licences for a period of three years, as opposed to 12 months. The Deregulation Act 2015 had introduced a number of important changes to the Licensing Act 2003, one of which was extending the standard duration of a taxi or private hire licence to three years. A shorter period could be considered but it was not possible to have a blanket policy of granting licences for less than three years. This was clearly set out within the draft policy at Paragraph 3.12 – Grant and renewal of licences.
- 8.10 The fourth consultation response raised concern regarding safety issues in relation to space and parking at Alderman Knight School. Whilst this was not relevant to

the policy, the Licensing and Systems Officer undertook to raise this with the appropriate group. The final response set out that the respondent's GP had been unhappy about signing a document giving an opinion on his ability to drive. The Licensing and Systems Officer clarified that GPs were not asked to make judgements on their patient's ability to drive, rather they were asked to assess whether or not they met the criteria for the Group 2 medical standards. If they did not, they would be required to appear before a Licensing Sub-Committee. The response also questioned why a DBS check was required upon renewal and Members were advised that, under the Rehabilitation of Offenders Act 1974, taxi and private hire drivers were required to disclose all convictions and cautions that would previously have been regarded as spent. As taxi and private hire drivers often worked with vulnerable children and adults it was important that their DBS certificates were up to date and the Council's policy was in line with the Department for Transport's recommendation that local authorities carry out checks every three years.

8.11 Having considered the information provided and views expressed, it was

RESOLVED

That it be **RECOMMENDED TO COUNCIL** that the revised draft Hackney Carriage and Private Hire Licensing Policy be **APPROVED** subject to the following amendments:

- **Paragraph 2.8 Security and CCTV**

There is no mandatory requirement for CCTV system in the licensed vehicles. Operators and drivers may install such equipment with prior written notification being supplied to the Council. Use of CCTV must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance. **No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the Council.**

- **Appendix E, Paragraph 9**

Major traffic offences

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LIC.9 SEPARATE BUSINESS

9.1 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.10 SEPARATE MINUTES

10.1 The separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 4 February 2016, copies of which had been circulated, were approved as a correct record and signed by the Chair.

The meeting closed at 3:10 pm