

## LICENSING COMMITTEE

MINUTES OF A MEETING of the Licensing Committee held on Friday, 22 March 2019 at 2.30pm at the Guildhall, Portsmouth

### Present

Councillors David Fuller (Chair)  
Ian Lyon (Vice-Chair)  
Tom Coles  
George Fielding  
Leo Madden  
Scott Payter-Harris  
Steve Pitt  
Darren Sanders  
Claire Udy  
Gerald Vernon-Jackson

#### 1. Apologies for Absence (AI 1)

Apologies had been received from Councillors:

- Dave Ashmore (Councillor Gerald Vernon-Jackson deputised for him)
- Benedict Swann
- David Tompkins

#### 2. Declarations of Members' Interests (AI 2)

No interests were declared.

#### 3. Minutes of the Previous Meeting (AI 3)

**RESOLVED** that the minutes of the previous meeting held on 6 October 2017 be noted.

#### 4. DfT consultation - draft statutory guidance to licensing authorities - taxis and private hire licensing. (AI 4)

Nickii Humphreys, Licensing Manager introduced the report.

During the discussion that followed, the following points were raised by members:

##### Number 5

*The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?*

It was noted that policy changes that are implemented retrospectively can have a serious impact on drivers' livelihoods.

In response to questions, the Licensing Manager acknowledged that policy changes that are applied retrospectively can be difficult for drivers and operators. However, the Licensing Committee has the power to depart from the guidance if it feels that this necessary due to local circumstances. She also informed members that when the new policy was introduced in 2016, the changes applied from drivers' applications after the date of the meeting where it was decided.

The Legal Advisor reminded the committee that it was considering statutory guidance which informs its decision-making and policy processes but is not legislation.

#### Number 7

*The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?*

The members considered that whilst this would be a useful safeguarding measure, the financial impact on drivers (£13 per operator/ driver per year) would be significant and the government should provide funding to cover the first year's subscription.

#### Number 8

*The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?*

In response to a question, the Licensing Manager explained that DBS checks are carried out every three years in accordance with current DBS guidance and includes the barred list. If a conviction is relevant to the occupation, the police have a duty to disclose it to the Licensing Authority under common law disclosure.

Members were concerned that the instruction to test every six months was prescriptive.

#### Number 9

*The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?*

In response to a question, the Licensing Manager explained that the council's policy requires notification within 24 hours.

Members noted that the policy wording needed to be made clearer, as not every driver interpreting regulations has English as their first language.

#### Number 16

*The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?*

It was considered essential that the council's contact details should be displayed in licensed vehicles, on the council's website and on mobile phone taxi apps.

The Licensing Manager assured the committee that the council's contact details are displayed on every private hire vehicle's dashboard and on the table of fares in hackney carriages.

### Number 19

*The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?*

Members noted that this was already happening.

### Number 21

*The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?*

Concern was expressed that the council was not being as strict with operators as on drivers. Some members had previously been informed that despite being required to forward all complaints from customers to the council, the operators do not do so.

The Licensing Manager explained that there have been no incidents where taxi call centre staff have used information gathered at work to commit offences. It is not the council's role to oversee operators' employment procedures.

Members indicated the proposed response should be amended to indicate that the authority *does* support the proposal at the first sentence. The remainder of the proposed response shall be deleted.

### Number 26

*The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering a policy mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?*

It was noted that although it can be frustrating at licensing hearings that the in car CCTV has no audio, the privacy rights of the drivers and passengers must be considered.

The Legal Advisor asked the committee to note that a recent Information Rights Tribunal decision ruled that continual audio recording is not permitted but targeted (triggered audio recording) may be permissible.

## **DECISIONS**

- **The proposed responses to the consultation were noted.**
- **Following comparison between the draft guidance and its own statement of policy for hackney carriage and private hire licensing;**
- **Authority was granted to the Head of Culture, Leisure and Regulatory Services to respond to the consultation on behalf of the Licensing Authority subject to amendments by the Licensing Committee.**

The amendments to the draft responses set out in the papers are as follows:

#### Number 5

*The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?*

The council is reluctant to impose retrospective changes to policy that may have a severe impact on existing licence holders. The Council does not consider such an approach to policy to be likely adopted except for national changes that may be implemented regarding public safeguarding.

#### Number 7

*The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?*

The council encourages the government to provide funding to Licensing Authorities to give to operators and drivers to cover their first year of the DBS update service subscription.

#### Numbers 21-23

The council does based upon the justification given in the draft statutory guidance, support this recommendation.

Additionally, the Licensing Manager was instructed to make the wording the council's policy simpler to understand regarding drivers' responsibility to:

- a) Notify the licensing authority of any arrest, charge or conviction.
- b) Disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by another licensing authority.

#### **5. Section 165 and 167 of the Equality Act 2010- wheelchair accessible vehicles. (AI 5)**

Councillor Darren Sanders left the meeting for this item.

The Licensing Manager introduced the report.

#### **RESOLVED that**

- **The introduction of a list of designated vehicles shall be progressed in accordance with the Equality Act 2010.**
- **Delegated authority is granted to the Head of Culture, Leisure and Regulatory Services to commence action as set out in paragraph 3.9 of the report, save for it not being necessary that a further report is presented to Committee.**
- **Delegated authority is granted to the Head of Culture, Leisure and Regulatory Services to introduce and maintain such a list, including updates where appropriate, together with the issue and refusal of exemption certificates to licensed drivers in accordance with section 166 of the Act following consultation with the trade, the Portsmouth Disability Forum, the Equalities Officer, as appropriate and approval of the Committee Chair.**

**6. Hackney carriage and private hire matters - amendments to statement of licensing policy. (AI 6)**

The Licensing Manager introduced the report.

During the discussion that followed, members noted the following points:

Cars are of better quality and are road worthy for longer than they were ten years ago and so last longer.

Electric and hybrid vehicles are currently significantly more expensive than diesel and petrol cars. The government could be asked for funding to encourage the taxi trade to move to these more environmentally-friendly vehicles.

As 50% of the emissions from cars during their life time is produced during the manufacturing stage, it is important that they are not junked earlier than necessary.

The possibility of permitting licensed vehicles that had failed the road test for minor defects to be on the road for two working days before being retested was debated.

The committee is keen to see fewer taxi drivers registered elsewhere working in the city.

In response to a question, the Licensing Manager explained that if a licensed vehicle fails its road worthiness test, the necessary work must be carried out and then the vehicle is retested. She added that cars deteriorate after eight years and are less likely to pass road tests first time.

Simon Potter, Service Manager at Adams Morey explained that:

Dispensations are given for vehicles that fail for cosmetic issues e.g. minor body damage.

His company had tendered for the contract to be Portsmouth City Council's sole testing centre for licensed vehicles. They are not permitted to carry out the necessary repairs that they identify. However minor adjustments can be carried out.

There is one designated slot available every day for retests including Saturday mornings.

Proposed amendment of the recommendations were discussed including extending the age from 4 to 5 years for annual testing (at 2.1 (iii)) and removal of the upper limit of ten years at 2.1 b) (i).

The Legal Advisor informed the committee that whilst amendment of the recommendations, as proposed, was acceptable, discretion exercised when testing vehicle roadworthiness and new policy regarding the age of specific vehicles were new matters to the agenda and could not be considered at this meeting. He also advised that it would not be possible during purdah. It was advised that such matters could, however, be brought back to Committee in accordance with recommendation 2.1 (c) of the report.

The Licensing Manager offered to bring a report to the next meeting covering:

- The discretion exercised when testing vehicle roadworthiness and the imposition of suspension pending correction.
- Age policy for wheelchair accessible vehicles.
- Age policy for multi passenger vehicles.
- Age policy for electric / hybrid vehicles

The meeting was adjourned in order to receive advice from the Monitoring Officer regarding the possibility of holding a Licensing Committee meeting during purdah.

The meeting reconvened.

The Chair noted that written deputations had been received from Chris Dixon and Andrew Rogers.

Bruce Hall asked the committee to consider his deputation, which included the following points:

- They were stunned that the council did not seek legal advice about changing the vehicle age policy and asked the committee to consider the financial impact that the change would have on drivers.
- The cost of buying an electric car takes 15 to 20 years to recoup.
- The infrastructure for charging electric vehicles is not sufficient for 1,200 electric private hire cars.
- Drivers should be proud of their vehicles and ensure that they are very well presented.

Viv Young asked the committee to consider his deputation, which included the following points:

- Safety is paramount. Braking is more important than a stained seat yet it is not included in the mini road safety test.
- There is a sufficient number of wheelchair accessible private hire vehicles to meet demand but there is an increasing demand for multi-seat vehicles.
- Photographs showing minor dents in a vehicle body panel were given to the committee.
- There are rumblings from drivers about the council livery on vehicles.
- There is not a level playing field because private hire vehicles that are licensed elsewhere are permitted to work in the city.

The Legal Advisor informed the committee that he had spoken to the Monitoring Officer during the adjournment and he had advised that a committee meeting could be held during purdah as the items were not considered to be controversial.

It was agreed that the next meeting will be held on 12 April.

**RESOLVED that this item was deferred to the next meeting. In addition to proposed amendment of the recommendations, the following points for discussion shall be added to the agenda:**

- **The discretion exercised when testing vehicle roadworthiness and the imposition of suspension pending correction.**
- **Age policy for wheelchair accessible vehicles.**

- **Age policy for multi passenger vehicles.**
- **Age policy for electric / hybrid vehicles**

**7. Report of the task and finish group on taxi and private hire vehicle licensing - update on government response. (AI 7)**

The Licensing Manager introduced the report.

**RESOLVED that the report be noted.**

**8. Fixed odds betting terminals - update on legislative changes. (AI 8)**

The Licensing Manager introduced the report.

**RESOLVED that the report be noted.**

The meeting concluded at 6pm.

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Signed by Councillor David Fuller, the Chair.