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## LICENSING COMMITTEE

MINUTES OF A MEETING of the Licensing Committee held on Friday, 24 February 2023 at 3.00 pm at the Guildhall, Portsmouth

### Present

Councillors Scott Payter-Harris (Chair)  
George Madgwick (Vice-Chair)  
Yinka Adeniran  
Dave Ashmore  
Stuart Brown  
Tom Coles  
Jason Fazackarley  
Charlotte Gerada  
Lewis Gosling  
Leo Madden  
Linda Symes  
Benedict Swann  
Daniel Wemyss

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

Apologies were received from Councillor Kimberly Barrett, Councillor Lee Hunt attended as her standing deputy.

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

There were no declarations of interest.

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

**RESOLVED that the minutes of the previous meeting on 25 July 2022 be approved as a correct record.**

#### 9. Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Amendments to Adopted Statement of Licensing Policy (AI 4)

The Licensing Manager introduced the report and drew attention to the following recommendations, particularly where they had changed in the light of the consultation responses or differed from the Department for Transport's Statutory Taxi & Private Hire Vehicle Standards (the statutory guidance):

- Recommendation 10 - The consultation had shown that giving 24 hours' notice (as opposed to 48 hours) was preferred for notifying the Licensing Authority of offences. If the arrest was on a Friday, weekend or Bank Holiday, notification would be within the next 24 hours or working day.
- Recommendation 18 - The consultation showed overwhelming support for training so mandatory annual training was proposed.

- Recommendation 21 - As well as adopting the Proposed Guidelines on the relevance of convictions and behaviour (Appendix B) it was proposed that it was appropriate for members to have sight of / consider previous licensing offences, which were absent from the statutory guidance. In addition, the statutory guidance only related to convictions but it was proposed that the policy also took behaviour into account. This would bring the process into line with long-established case law and practice.
- Recommendation 37 - Many consultation responses wanted the upper age limit of vehicles to be 12 years for all licensed vehicles, not just wheelchair accessible vehicles (WAVs). The proposed amendment would allow satisfactory vehicles to benefit from an extra four years. If a vehicle did not meet the required safety and comfort standards it would receive a "RED" indicator with a presumption the licence would be revoked. Appendix C showed vehicle failure according to age.

Simon Potter from Adams Morey, the council's nominated examiner of licensed vehicles, was in attendance to help answer members' questions.

Deputations were made by the following:

- Nizam Ahmed (taxi trade representative)
- Bruce Hall (General Manager, Aqua Cars)
- Peter Sutherland (Uber representative)
- Shahed Uddin (taxi trade representative)
- Viv Young

Deputations are not minuted but can be viewed on the council's website [Agenda for Licensing Committee on Friday, 24th February, 2023, 3.00 pm Portsmouth City Council](#)

#### Members' questions

In response to Mr Hall's comments about vehicles failing inspections for not having no smoking or CCTV stickers, the Chair asked if Adams Morey could keep a supply of stickers, as Mr Hall had suggested. Mr Potter agreed and said Adams Morey would keep a supply of stickers.

With regard to comments made in the deputations, the Licensing Manager reminded members that they "must have regard" to the statutory guidance (with the exception of the age limit of vehicles) and that was the purpose of the meeting. If they felt the guidance was not applicable they had to say why it was inappropriate for Portsmouth.

With regard to the certificate of conduct (recommendation 16), the current policy requires that anyone who had lived outside the UK since the age of ten needed to provide a certificate of good conduct. It had been since the age of 18 but a former Committee had said ten upwards was the age of criminal responsibility. With increasing numbers of applicants it was becoming onerous to ask them to supply a certificate from the age of ten. The Licensing Manager could not personally recall an application where a foreign conviction was attributable to a person under the age of 18. In the survey the question had the lowest amount of agreement but the consultation was sector specific and lay people might not have understood it.

With regard to PSVs and PCVs, the statutory guidance had different standards of checking than for Hackney carriage and private hire vehicle (PHV) drivers. The Licensing Office could not get involved as the Licensing Authority did not deal with PSVs and PCVs. However, under the statutory guidance a PSV operator with a vehicle with more than eight seats had to have consent from the person making the booking (recommendation 33).

Mr Potter sympathised with the restrictions under which the trade worked. Standards had been tightened up after being relaxed slightly during Covid. Vehicles were unlikely to be failed on only cosmetic issues alone. Adams Morey will report certain issues as an "advisory", for example, for two weeks or a month for the issue to be fixed. Failing a vehicle for a split rubber seal on a door might sound trivial but when seals split they get dirty and could make passengers' clothes dirty. Adams Morey charged less than the maximum MOT fee and there was no cost for a re-test. In fact, the re-tests cost Adams Morey money.

The Principal Licensing Officer explained that while proprietors may not be front-facing staff, the Licensing Authority have had experience of some who have changed insurance details and given false information. DBS checks could relate to matters relating to dishonesty in respect of proprietors.

The Licensing Manager said a link to the survey had been sent to each individual licensed taxi and PHV driver, operator and proprietor. The Licensing Office had engaged with trade representatives to positively encourage contributions. In response to comments that the number of responses from drivers was not very high, the Licensing Manager said it was the highest response seen when consulting on policy, perhaps because of social media platforms like My Portsmouth. As the policy affected drivers' livelihood it would be odd for them not to complete it, which was why the Licensing Office had engaged with drivers, operators, proprietors and trade representatives and urged them to contribute. There were about 1,300 drivers in Portsmouth.

Some members were concerned about the number of responses to the survey. They suggested using formats other than just online the next time there was a survey. A content analysis of the open comments would be helpful. As some questions were not understood it might be helpful to test questions first. Trade unions could be included. The Licensing Manager said the trade representatives had good coverage of the city and Licensing had worked with Corporate Communications as the survey was very specific to a particular strand of industry and dealt with complex matters. Some operators had contact with trade unions so Licensing were confident they were aware of the survey. However, members' comments and suggestions would be taken on board for next time, to which the Chair agreed.

With regard to proposed mandatory training for the Licensing Committee, there was no specified format or length, but it was part of the whole ethos of members' role as the Licensing Authority. Members had statutory functions, for example, relating to alcohol, gambling, sex establishments, and they needed to understand their roles. Training ensured the Licensing Authority could demonstrate its understanding of the function and role. Training was provided annually to members wishing to serve on the Licensing Committee and members were asked to consider whether this should be a mandatory requirement in future. The Licensing Manager strongly advocated for

the requirement for mandatory training to ensure that members were provided with the necessary skills to undertake their duties.

The Legal Adviser said that some statutory regimes required training and he strongly endorsed the recommendation. It was becoming increasingly important to fend off legal challenges. There was increasing indication that training was fundamentally important, for example, from the LGA Councillor Handbook and the Task and Finish Group which reported to the government. There were specific pieces of legislation that referenced best practice in respect of members having training. The key was that training was regular, not once in a blue moon. If training was not received and documented it potentially opened up challenges to all decisions made by members, not just those relating to taxis and PHVs. The Legal Advisor's advice was that documented training was essential to protect the Committee's decisions from legal challenge.

The Chair agreed that training was important and said members could not sit on a sub-committee if they had not been trained.

In response to comments that cosmetic issues in relation to the suitability of licensed vehicles were not important, as long as vehicles were kept in good repair, the Licensing Manager said vehicles had to be comfortable as well as safe, which meant not having rubbish on the front seat or stained seat covers. They were professional vehicles and like buses they were expected to be clean. Licensing officers have done spot checks and have photographic evidence of unsatisfactory vehicles. If there were no standards then dirty vehicles would not be an exception. It was a tightrope between protecting the public and not being too punitive towards drivers and proprietors. Members agreed it was a difficult balance. The Chair suggested the issue should be on the agenda for the consultative group to consider, for example, how many spot checks were done and how many issues were found. The Licensing Manager agreed and acknowledged that the cosmetic side of vehicle testing was unpopular with the trade. Licensing officers could work with Adams Morey to help inform policy.

With regard to use of bus lanes and livery for taxis and PHVs, the Licensing Manager said the DfT's consultation upon updated best practice guidance, which had been put out for consultation in March 2022, proposed that taxis and PHVs should be prevented from being the same colour.

Sales of diesel and petrol vehicles were being phased out by 2030, two years after the policy expired, which from a licensing perspective had to be re-examined every five years so would be reviewed before then. Issues with infrastructure in Portsmouth were acknowledged but they were not part of the Licensing Authority's remit. Members had to consider the policy based on today's evidence. The policy can be reviewed at any time should there be a change in material circumstance and in any case should return to the Committee every five years. The Committee still had the discretion to license vehicles outside the policy if they were exceptional and had merit. If there were reasons to change the policy it would return to the Committee.

With regard to the balance between safeguarding the public and reducing burdens, the Licensing Manager explained the policy focused on safeguarding and protection, the same as any licensing regime which protected the public. It had to consider what

"fit and proper" meant to the public and the applicant. Recommendation 20 was an attempt by the government to say what the Committee should consider, which meant putting the public first and the financial implications of losing a licence etc. should not be taken into account.

The Legal Advisor said there had been a sea change in the national approach to safeguarding because of inappropriate use of taxis and PHVs, for example, involvement in drug peddling, county lines, child abuse etc., so safeguarding was at the forefront of licensing. Local authorities needed to have very strong local reasons not to adopt the statutory guidance.

The Licensing Manager agreed the trade would need time to adopt any new standards and that this would impact resources. Priorities would be addressed in a staged, transitional approach. For example, the DBS checks moving from every three years to six months would have massive resource implications for the Licensing Office. It was encouraging drivers to do this online so they did not have to come into the office.

The Committee adjourned for a short break from 4.27 to 4.34 pm.

#### Members' comments

Members agreed public safety was paramount and there was nothing in the recommendations that was not common sense. Everything the Licensing Authority did such as having CCTV in vehicles was to protect the public. If someone did not want a DBS check it might raise suspicions as to why. The standards protected the public and the trade. They were important as people were entitled to get in a clean vehicle.

Members had high regard for the taxi trade, who were also residents, and had learnt much from representatives in the process of setting policy.

In Section 8.2 "him" should be "him or her."

The Licensing Manager explained the policy required the same passenger details as the statutory guidance but was worded slightly differently. Mr Hall said it was not always possible to get passengers' names when bookings were made from, for example, restaurants or hotels where table or room numbers were given. Getting passengers' names and contact details might be helpful for tracking down passengers who were sick in the vehicle to make them pay for the damage.

Members agreed new councillors should have training but refresher training could be used for those who have already been on the Committee. In view of the number of political parties and movement between them it would help if all members had training on a two-year training cycle (mid-term) so they would be able to sit on the Committee. Some members thought two hours annual training was not a problem. Learning & Development had contacted the Licensing Manager about different formats of training, such as recordings which members confirm they have attended. Officers needed to ensure members were aware of new legislation. After the local elections Democratic Services would remind members to attend training. Some members were on a working group looking at member training and others were

invited to contact the Senior Local Democracy Officer if they wanted to know what the group was doing.

Some members thought the colour of vehicles was not very important; the light on top of the vehicle was a clearer indication of whether a vehicle was a taxi or a PHV. On the other hand, one colour for all vehicles would show the public it was licensed.

Members agreed to accept recommendation 37 that the upper age limit for vehicles be amended from eight to 12 years. They also agreed that the consultative group should consider extending the upper age limit to 14 or 15 years in view of the cost of vehicles, especially wheelchair adapted ones. They wanted to make drivers' lives easier not more difficult. The vehicle inspection data showed that sometimes older vehicles were better than newer ones though it was not fully conclusive as it was not broken down for vehicles older than nine years.

## **DECISIONS**

- 1. The Licensing Committee considered the recommendations numbered (1) to (37) in the report attached as Appendix A and duly noted/determined amendments as set out in the recommendations save for the incorporation of refresher training in addition to training for new members on the Licensing Committee at recommendation 18.**
- 2. The Licensing Committee agreed that the amendments to the policy will come into effect on 1 April 2023.**

## **10. Vehicle Specification Requirements - Salvaged Vehicles (AI 5)**

The Principal Licensing Officer gave a verbal update on a proposed period of formal consultation on the suitability of licensing vehicles with a category N or S salvage marker. Portsmouth did not follow the same policy as other areas, so officers needed to see other authorities' policies on these vehicles. Consultation would be with the trade, Association of British Insurers, the Lloyds Syndicate and Adams Morey to see if there was scope to licence them. Feedback was welcome and there would be a report back to the Committee.

Mr Potter explained Category N meant non-structural damage though it included damage to the brakes, steering and suspension. Category S meant structural damage. Both categories were recorded in V5 logbooks but only when changes were made.

Members thought it was sensible to investigate further but wanted to avoid licensing vehicles where the chassis had been welded together from different ones.

## **DECISIONS**

**The Licensing Committee noted the current policy on salvaged vehicles and instructed the Licensing Manager to carry out a period of formal consultation with all interested parties and to report back with recommended good practice advice and policy guidance on the suitability or otherwise of licensing vehicles with either a category S or category N marker recorded.**

The meeting concluded at 5.06 pm.

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Signed by the chair, Councillor Scott Payter-Harris

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