

# **DRAFT**

**Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee**

## **LICENSING COMMITTEE**

### **MINUTES OF THE MEETING HELD ON MONDAY, 11 FEBRUARY 2019**

**Councillors Present:** Howard Bairstow, Jeff Beck (Vice-Chairman), Graham Bridgman, Paul Bryant, Richard Crumly, Billy Drummond, Sheila Ellison, Tony Linden and Quentin Webb

**Also Present:** Charlie Fletcher (Acting Principal Licensing Officer), Sean Murphy (Public Protection Manager), Julia O'Brien (Licensing Team Manager), Amanda Ward (Lead Licensing Officer) and Stephen Chard (Principal Policy Officer)

**Apologies for inability to attend the meeting:** Councillor James Cole

#### **PART I**

##### **13. Minutes**

The Minutes of the meeting held on 19 November 2018 were approved as a true and correct record and signed by the Vice-Chairman.

##### **14. Declarations of Interest**

There were no declarations of interest received.

##### **15. Hackney Carriage and Private Hire Licence Fees Consultation Responses**

The Committee considered a report (Agenda Item 4) which gave the Licensing Committee the opportunity to consider the responses received during the 28 day consultation period concerning the proposed fees in relation to hackney carriage and private hire licensing.

Councillor Jeff Beck outlined the process for considering the item. Post the Officer introduction to the item, Members would have the opportunity to ask questions. Members would then be asked if they were willing to suspend standing orders so that those in attendance from the Taxi Trade could address the Committee (if they wished to do so) for a period of up to ten minutes. Members could then question the Taxi Trade representatives before standing orders were reinstated and the debate could then commence.

Charlie Fletcher, Acting Principal Licensing Officer, introduced the report and explained that the proposed fees were recommended to be implemented from 1 April 2019. In line with legislative requirements, a public notice was published in the Newbury Weekly News on 20 December 2018 and a copy of this notice was available on the Council's public noticeboard from that date until 17 January 2019.

During this consultation period, seven objections were received for the Committee's consideration. The objections raised concerns including how above inflation increases could be justified and whether the proposed increases went above a permitted percentage.

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

Officer observations had been provided on some of the points raised, these were outlined in paragraph 6.4 of the report and included an explanation that there was no maximum percentage governing increases. Councils could set fees at the level they deemed fit as long as they had been advertised and approved in the appropriate way.

Charlie Fletcher then turned to Appendix E (historical fees for vehicles and operators). This showed that there had been a freeze on vehicle fees between 2012 and 2017.

The proposed fees were based on the cost of service provision. The existing hourly rate of £35 did not cover the cost of delivering the service. The proposed £55 per hour would cover the total support recharge, both revenue and capital costs.

A lack of enforcement action was also highlighted as a concern in the consultation. It would become possible to increase the level of enforcement resource if the rise in fees was approved.

There was also an objection that West Berkshire's proposed fees exceeded those set in other local authorities. However, the benchmarking data provided at Appendices F and G showed that existing fees were among the lowest of neighbouring authorities. The proposed increases would place West Berkshire in the middle range.

Charlie Fletcher reiterated that the proposal, which would ultimately be determined at Full Council, would enable full cost recovery for providing the service. Lower fees would result in the Council having to subsidise the cost.

A number of questions followed from Members. Councillor Graham Bridgman queried how the hourly rate had been calculated. Charlie Fletcher explained that this was to cover all overheads. Sean Murphy, Public Protection Manager, expanded on this by explaining that the hourly rate had been calculated to cover all revenue budget costs of operating the service. This included Accountancy, Legal and Democratic Services costs.

Councillor Bridgman then turned to the benchmarking data and questioned the assertion that the proposed costs would put West Berkshire mid table. The benchmarking information for vehicles showed that West Berkshire's proposed costs would be similar to Bracknell Forest (slightly lower) which was expected so that the Public Protection Partnership authorities were relatively aligned and similar to Reading's which were higher.

West Berkshire's proposed fees were not contained in Appendix G – Operator licence fees which made comparisons with other areas difficult. However, while he noted Reading's higher fees (set for one year licences only) Councillor Bridgman queried which other benchmarking authorities had similar or higher fees. Charlie Fletcher explained that in addition to Bracknell Forest and Reading (already mentioned), Windsor and Maidenhead also had higher fees.

Councillor Bridgman then reflected on the Licensing Committee discussion in June 2018 when it was highlighted that in 2014/15 the service had traded at a deficit of £70k, in 2015/16 a deficit of £156k, but in 2016/17 the deficit had reduced to only £358. Councillor Bridgman therefore queried whether a deficit or surplus position had been reached for 2017/18 and the forecast position for 2018/19 based on the current fees. Judging by the proposed increases he would anticipate the service operating at a deficit. He queried if this information was available for the current and the previous financial year.

Sean Murphy explained that the costs incurred by the service were considered on basic principles and the exercise to identify these costs did not relate to the figures quoted for previous years. The calculations were based on the number of hours taken to administer the licensing function multiplied by an hourly rate.

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

Julia O'Brien, Licensing Team Manager, explained that individual revenue budget lines were in place, i.e. for taxi licences. However, she did not have specific details available at the meeting. Councillor Bridgman commented that it was difficult to fully consider the appropriateness of fee increases without this detail on service costs.

Councillor Bridgman next turned to the proposed fees outlined in Appendix D and questioned the difference in one year licence fees for different numbers of vehicles. For example, the fee for 2-5 vehicles increased by £215 for 6-10 vehicles and there was a further increase of £205 for 11-15 vehicles, this inconsistency continued. His expectation was that the difference would remain consistent between the different vehicle ranges. This needed to be revisited, fully understood and potentially amended before it could be approved.

In response to Councillor Bridgman's query on the reason for the difference in price between Private Hire Vehicle Licence fees and the fee for a Private Hire Vehicle Licence with dispensation, Julia O'Brien explained that licences with dispensation were for vehicles with no plate on the car and 95% of their work was conducted on a corporate basis. They were not permitted to accept cash payments. Fees were calculated at a higher rate due to the additional contract work required with operators.

Councillor Tony Linden queried whether operators with a higher number of vehicles received a discount. Julia O'Brien confirmed that the proposed charges took account of any discounts.

Councillor Paul Bryant felt it would be useful to have an understanding of whether discounts were available for longer term licences and for a higher number of vehicles. Councillor Bridgman added his expectation that a discount would be in place for a five year licence.

Councillor Bryant also felt that it would be beneficial to introduce an algorithm to aid calculations on an annual basis and make them consistent. This would also help with understanding fee increases.

Councillor Beck then proposed to suspend standing orders to allow members of the Taxi Trade present to address the Committee for a period of up to ten minutes. This was seconded by Councillor Bridgman and agreed by the Committee.

Mr Peter Chemaly, Director of Cabco, addressed the Committee and highlighted the following points:

- Cabco was a large private hire operator in West Berkshire with a fleet of 31 vehicles and the proposed fee increases were not affordable. Cabco was a not for profit organisation and it would only be possible to recoup costs by increasing their member fees.
- The arbitrary increase for a five year licence from the existing £1356 for 9+ vehicles to the proposed £4529 for 20+ vehicles was a concern and this cost could not be absorbed.
- Proposed West Berkshire costs were not included in the benchmarking Appendix G, but the closest comparator local authority was Windsor and Maidenhead and Mr Chemaly questioned that this was a comparable authority.
- The proposed increased cost would also have a serious impact upon smaller private operators.

Mr Graham Cox, representing a private hire operator with dispensation, addressed the Committee and highlighted the following points:

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

- He was also concerned by the proposals. There had been a 40% price increase in June 2018 for vehicles with dispensation, this further proposal represented a further 58% increase. This was an unrealistic expectation which created significant difficulty for operators.
- He felt it questionable that service improvements would be made. Miscellaneous provision checks had not been undertaken in five years, but this was a service that had been paid for.
- Mr Cox questioned the proposed increase to licence fee costs for vehicles with dispensation and what service improvements this would bring. He was concerned at the level of service. Julia O'Brien reiterated that 95% of the work of dispensation vehicles had to be conducted on a corporate basis and this required more contractual work for the Licensing Authority with the companies concerned. She explained that the records of companies were checked several times a year to ensure no cash work was conducted (as this was sometimes the case). Julia O'Brien added that service improvements would always be sought where possible.
- Mr Cox was concerned that there was potential for unlicensed vehicles to be operating. Julia O'Brien advised that she was unaware of any complaints in this regard, but would double check the records.
- Greater clarification had been expected from Licensing Officers on fees following the Licensing Committee held in June 2018, but to his knowledge this had not been forthcoming.

Councillor Richard Crumly referred to the correspondence received from objectors, specifically the e-mail dated 3 January 2019 from Cabco and questioned what increase was felt to be appropriate. In response, Mr Chemaly gave the expectation from Cabco that increases should be in line with inflation. Mr Cox agreed the current rate of inflation of 2.2%.

Councillor Bridgman commented that the concept of cost recovery for providing the service was sound, this differed from the inflation debate. The proposed figures needed to be justified as providing cost recovery taking into account all incurred expenditure. The cost could then be proportionally and properly split across the different services. He asked members of the trade for their views on the cost recovery concept.

Mr Cox replied in agreement, he felt it made business sense. However, he remained concerned at how the increased fees had been calculated, there was no breakdown in the paperwork and no understanding of how the figures were calculated.

Councillor Beck gave thanks for the input from the members of trade. The Committee then reinstated standing orders.

Councillor Beck summarised the view of both the taxi trade and Members that there was a need for greater clarity on the costs.

Councillor Webb recalled an action for Licensing Officers, from the June 2018 Licensing Committee, to provide further information on the budget carry forward position and on the overheads incurred by the service. He did not believe this had been provided but information on the overheads would be very beneficial.

Councillor Beck felt that a deadlock position had been reached and reiterated that a greater level of clarification was needed. He therefore proposed that the decision be postponed and returned to at a Special Licensing Committee provisionally arranged for 21 February 2019. The onus would be on officers, in preparation for that meeting, to provide a greater level of clarification on how the fees had been calculated. While

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

Councillor Beck felt there to be unanimous agreement to the cost recovery approach, further detail was needed to support the calculation of the proposed fees.

Councillor Bryant gave his support to this proposal. He suggested that a list of information requirements be formulated to help inform discussions at the special meeting. The following information/input was requested:

- To establish an algorithm on which costs could be based now and in future.
- Greater awareness of how proposed costs had been calculated for different numbers of vehicles. To include an understanding of baseline costs, i.e. costs for smaller and larger number of taxis used by a firm. Request for examples to aid understanding.
- Justification of why proposed costs exceeded the rate of inflation.
- The inclusion of information on what was permitted in terms of fee increases by legislation.
- Justification for the increase to £55 per hour on a cost recovery basis –analysis needed to help understand how figures had been calculated, i.e. time taken for certain tasks and the cost of doing so, and how increased funding would be put to use. Fees need to be compared with the cost of running the service. What extra service provision could be introduced from 2019/20 if fees were increased as proposed? How would the proposed increase have impacted on the 2018/19 budget if it had already been introduced versus the cost of providing the service, would it have achieved cost recovery?
- Papers needed to include proposed figures alongside the existing to aid benchmarking comparisons for operator licence fees.

In response to a question from Councillor Bryant, Sean Murphy explained that each local authority in the Joint Public Protection Partnership (JPPP) was at liberty to set its own fees. However, it was the intention to rationalise fees across the three local authorities wherever possible. Fee increases had already been agreed by Wokingham Borough Council and were due to be discussed imminently at the Council meeting of Bracknell Forest Borough Council. No objections had been lodged in those areas. Sean Murphy did however reiterate that West Berkshire Council's fees could diverge from the JPPP partners.

Councillor Bridgman commented that there had been an expectation from the trade (following previous meetings) that they would consider an adjustment to their fares. He questioned whether this had been undertaken. A trade member commented that an application had been submitted but a response had yet to be received.

Councillor Bridgman seconded Councillor Beck's proposal to defer this decision until the Special Licensing Committee on 21 February 2019. The Licensing Committee unanimously agreed to do so.

Councillor Beck invited the taxi trade to attend the special meeting when, subject to Members' approval, they could again address the Committee. A trade member commented that they would be willing to work in collaboration with Licensing Officers on this matter.

**RESOLVED that** the decision to recommend licensing fees to Council would be deferred until the Special Licensing Committee on 21 February 2019 when the additional information requested would be provided.

Councillor Jeff Beck then noted from the benchmarking information that Reading Borough Council offered a discount for licences for electric vehicles and Hart District Council did likewise for wheelchair accessible vehicles. He queried if the Joint Public Protection Committee should be asked to consider offering a similar discount as a way of encouraging the growth of such vehicles if this could be funded.

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

Julia O'Brien commented that around 60% of Hackney Carriage and private hire vehicles were already wheelchair accessible, with other vehicles having swivel seats fitted. Therefore, Councillor Graham Bridgman felt that operators were largely wheelchair accessible already and benefitted from this trade without needing a discount.

Turning to electric vehicles, Councillor Bridgman agreed this should be promoted and encouraged, but he queried if the Licensing Committee was the appropriate mechanism for doing so. He felt that this was best promoted in different ways by the Council.

Councillor Bridgman then gave his view that the cost recovery model was appropriate for administering licences for every type of vehicle and it was fair to charge operators for the full cost of a service on this basis.

Councillor Beck then referred to a press article in relation to the potential to make CCTV cameras mandatory in taxis to improve passenger safety. Charlie Fletcher explained that a Government task and finish group had produced a report on passenger safety which included as a recommendation the mandatory installation of CCTV cameras. However, this had proved difficult to enforce in areas of the country where this was already mandatory. The Government was due to respond to the report's recommendations. Sean Murphy explained that there would be a number of strict requirements to adhere to if this was implemented.

### 16. **Convictions Guidance**

The Committee considered a report (Agenda Item 5) which examined the criminal convictions element of the 'fit and proper' test. This test applied to existing licence holders and new applicants for Hackney Carriage driver licences, Private Hire driver licences, and Private Hire Operators licences.

It was proposed to replace the Council's existing criminal convictions guidance document with a more comprehensive policy, which had been drafted to reflect the recently published 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades', produced and published by the Institute of Licensing (IoL).

Applicants needed to pass the criminal convictions element of the 'fit and proper' test at the point of application and throughout the life of their licence.

The Officer recommendation was to note the new IoL guidance and, subject to consultation with the trade, to adopt the guidance and the new Criminal Convictions Policy. This would constitute a widening of the Council's existing criminal convictions guidance.

Councillor Jeff Beck added that the results of the consultation would be brought back to the Licensing Committee at its meeting on 24 June 2019.

Councillor Richard Crumly noted the requirement in the summary report for the Council to include a criminal records (DBS) check as part of its fit and proper person test. He queried the length of time this could add to the process. Charlie Fletcher, Acting Principal Licensing Officer, explained that this was difficult to determine due to the number of variables that could impact on timeframes. These included the different police jurisdictions that could be involved and cases where there had been prior criminal convictions.

Appendix G detailed the draft Criminal Convictions Policy (proposed for adoption, subject to consultation with the trade). Councillor Quentin Webb stated that he had read through this document and felt that it reflected the relevant aspects of the IoL guidance.

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

In response to a question from Councillor Graham Bridgman, Julia O'Brien advised that Hackney Carriage and Private Hire licences needed to be renewed every three years.

Councillor Paul Bryant proposed acceptance of the report's recommendations, including adoption of the new Criminal Convictions Policy, subject to the consultation process. He did however query whether the IoL document could not be adapted to save officer time in producing a local guide. In response, Charlie Fletcher explained that the Council needed to have a definitive Policy in place and the IoL guidance would not serve that purpose. The IoL guidance would be a supporting document.

Councillor Bridgman agreed the documentation was fit for the consultation phase and seconded the proposal.

Councillor Jeff Beck commented that Appendix G, once approved and if necessary adapted post consultation, would become the Council's definitive Criminal Convictions Policy. The IoL guidance would also be adopted as recommended by Officers post consultation.

### **RESOLVED that:**

- The guidance published by the Institute of Licensing be noted.
- A consultation be carried out with the trade on the proposals that:
  - (i) the new guidance be adopted by the Council; and
  - (ii) the new Criminal Convictions Policy be adopted, replacing the existing guidance notes.
- The results of the consultation be brought back to this Committee for further consideration.

## **17. Animal Licensing**

The Committee considered a report (Agenda Item 6) which provided an update on the changes that had taken place in the field of animal licensing following the commencement of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and the impact of these changes on the Authority.

Charlie Fletcher, Acting Principal Licensing Officer, explained that the activities licensable under the Regulations included selling animals as pets, providing or arranging for the provision of boarding for cats and dogs, hiring out horses, breeding dogs, or keeping or training animals for exhibition.

The aim of the new Regulations was to raise and modernise the welfare standards for businesses involving animals, as well as to streamline the licensing system, for example, by allowing operations who were carrying on more than one activity to have multiple activities authorised under one licence.

Conditions attached to licences and the standards that must be met before a licence could be granted were now within the Regulations, rather than being set by individual authorities. These were therefore national standards and could not be amended or added to by the local authority.

It was noted that officers conducting inspections would need to be suitably qualified. Consequently, the Council would need to train existing officers, hire suitably qualified inspectors, or continue to outsource these inspections.

The need to adhere to these enhanced standards and inspection requirements meant that the current set of fees no longer covered the costs associated with processing, issuing and enforcing licences. A new schedule of fees was being worked upon and would be presented to the Committee later this year with a recommendation for adoption.

## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

It was also noted that the Regulations did not include the ban of third party sales of puppies and kittens known as 'Lucy's Law'. A ban relating to 'Lucy's Law' would be introduced by the Government in due course.

Councillor Jeff Beck noted from the report that existing performing animal registrations would continue in force for a period of six months, meaning they would lapse at the end of March 2019. He queried the implementation date of the new Regulations. Charlie Fletcher explained that the Regulations came into force on 1 October 2018. Previously, there had been no expiry date for performing animal licences and licence holders had therefore been given a period of six months to renew their licence in accordance with the new statutory regulations.

In response to a query from Councillor Quentin Webb, Charlie Fletcher confirmed that the newly introduced requirement for a reduced litter threshold for dog breeders before a licence was needed from five to three litters per year was per breeder.

Councillor Webb followed this up by asking how a litter size could be policed for non-pedigree dogs. Charlie Fletcher explained that this would be undertaken as with any licensable activity. For example, on-line sales would be monitored. Sean Murphy, Public Protection Manager, added that there was a requirement for a registration number (issued by the local authority) to be included in any advertisement. There was also a programme of inspections.

There was also a requirement for dog breeders to show puppies alongside their mother before a sale was made. This was a requirement to protect and reassure purchasers that puppies had not been imported or provided from a puppy farm.

Councillor Sheila Ellison queried whether a licence would always be needed if an owner's bitches had puppies three times in one year. Charlie Fletcher explained that the guidance available highlighted a number of factors for consideration, this including the income being obtained. If the owner was not operating a business and was making a profit of less than £1,000 after incurring food and vet bills then the licence requirement might not apply. Councillor Ellison did not feel that owners would be making significant sums of money and was concerned at the ability to police this for unregistered dogs.

Councillor Tony Linden voiced his concerns. The Regulations had been introduced to help ensure that owners were caring for their animals' wellbeing and were not looking to make a profit from them. He was supportive of the Regulations as they would help to regulate activity.

Sean Murphy commented from a trading standards perspective that there were cases of illegally imported animals and presentation of false documentation. The Regulations were particularly designed to stop these extreme cases.

Councillor Howard Bairstow queried how breeders were being made aware of the Regulations. Charlie Fletcher advised that guidance documents for each licensable activity was available on the Council's website. The introduction of the new Regulations had been well publicised.

Councillor Graham Bridgman noted that inspections were currently contracted to City of London who provided suitably qualified inspectors and he queried whether this would continue in the future or whether it was the intention for the Council to conduct inspections in-house funded by licensing fees. Sean Murphy advised that the structure of the Joint Public Protection Partnership was being considered and this included the most efficient way to provide animal welfare services. This was part of a three year transition period. In the interim, inspections would continue to be outsourced to City of London, but in the longer term in-house provision would be looked to.



## LICENSING COMMITTEE - 11 FEBRUARY 2019 - MINUTES

Councillor Bairstow queried if veterinarians were required to notify the local authority if they had animal welfare concerns. Sean Murphy explained that while they were not legally obligated to do so, veterinary practices did report concerns.

Councillor Webb asked for further information on the new schedule of fees that had been referred to. Charlie Fletcher reiterated that this was being worked on and would be progressed by the Joint Public Protection Committee before being reported to/debated by the Licensing Committee.

Councillor Richard Crumly queried the legal sanctions that could be imposed and whether these constituted a preventative measure. Charlie Fletcher advised that, for example, the Council or the RSPCA could bring charges against an individual who had committed offences which fell under the Animal Welfare Regulations. While there had been no prosecutions brought since the new Regulations were introduced in October 2018, there had been under the previous licensing regime.

**RESOLVED** that the report be noted.

*(The meeting commenced at 4.30pm and closed at 6.01pm)*

**CHAIRMAN** .....

**Date of Signature** .....