

REPORT AND RECOMMENDATIONS BY THE LICENSING COMMITTEE TASK GROUP REPORTING ON DISABLED ACCESS TO TAXIS IN WEST BERKSHIRE

INTRODUCTION

1. The Licensing Committee meeting (10 December 2004) agreed that a small Task Group of four Members (Cllrs Findlay (Chairman), Farrin, Hunneman and Rowles) would prepare a report on Disabled Access to Taxis and Disability Awareness Training. The Task Group met on 11 January, 1 February and 24 February 2005. This report summarises the evidence which was received from both the Trade and the West Berkshire Disability Alliance, the Task Group's discussions and their Recommendations to the Licensing Committee.

2. Background

In July 2000, the Public Protection Committee agreed to end the dual town/district licensing system for taxis and the then in place limit on the number of taxi licences issued for both zones. At that time, the Council, as the Licensing Authority, also considered reports on access to taxis by the disabled and it was decided that whereas taxis operating under licences first registered before April 2001 would be exempted, taxis first licensed after that date would have to have either an approved swivel seat fitted for the front seat passenger or be fully wheelchair accessible. The condition on accessibility became operational on 31 August 2003. Although many taxi operators met the condition by either buying a fully wheelchair accessible vehicle or fitting an approved swivel seat in the intervening years, a minority (6 operators) did not do so before the August 2003 deadline and chose to appeal. In the subsequent hearing, the Stipendiary Magistrate allowed the appeals as he was of the opinion that the approved swivel seat, although safe, was not suitable for all passengers. Further, it was noted that had the Council chosen to impose only the wheelchair accessible option, the appeals would have been dismissed. It was against this background that the Licensing Committee decided in September 2004 to impose a temporary moratorium on granting taxi licences. That moratorium was extended at Committee's December 2004 meeting to provide time for a Member Task Group to take evidence from the both the taxi trade and disabled users in West Berkshire.

3. Present position within West Berkshire

Taxis licensed before 1 April 2001 remain unaffected by the subsequent local conditions – the installation of an approved swivel seat or full wheelchair accessibility - imposed on taxi licences issued after that date. The temporary moratorium on the issue of further taxis licences remains in place until the Licensing Committee considers the matter at its next meeting on 14 March 2005. On 1 Jan 05 there were 184 licensed Hackney carriages in West Berkshire; six were fully wheelchair accessible, eight are MPVs and 12 had a front passenger 'swivel' seat fitted.

4. Nationally

Although the Government has recently chosen to further implement the requirements of the Disability Discrimination Act (DDA) 1995, Sections 32-39 of the Act, which aim to ensure that disabled people have the same flexibility and choice in their use of licensed taxis as the rest of travelling public, have yet to be brought into force. In particular, although Section 35 of the Act provides the Secretary of State with power to issue regulations on taxis accessibility, the Government has yet to exercise this

option. When the Chairman approached the Disabled Persons Transport Advisory Committee (DPTAC), which provides advice to Government, the DPTAC noted in a written response that:

“The Department (Department of Transport) has announced an intention to introduce regulations for accessible taxis. If introduced, the regulations will apply to towns and cities with a population of 125,000 or more and would come into force in 2010 with an end date of 2020. Before regulating, the Department will go out to consultation.”

5. West Berkshire Council

Whereas there is general guidance within the DDA, and a clear intention that access to transport should be available to all the population without discrimination, there is no mandatory requirement at present to provide access for the disabled to taxis. However, the Council's Corporate Plan, which is built around six Corporate Values, is based on Equality, Responsiveness and Continuous Improvement. In turn, this Plan seeks to support the West Berkshire Community Plan in furthering 'equality of access to services and facilities'. The Transport Priority within the Community Plan Vision 'A Better Future for All' specifically notes 'Developing transport solutions matched to people's needs across the district'. In seeking to address the need to improve disabled access to taxis, the Task Group would be furthering both the Community Plan and the Corporate Aims of the Council

6. The Future

The Task Group recognised that the Council faced a difficult situation following the successful appeals against the introduction of its July 2000 policy on disabled access to taxis. Given that, there were three alternative courses of action:

- Do nothing;
- Change the Policy
- Appeal against the decision of the Stipendiary magistrate

The Council decided that to 'do nothing', would have left the existing policy 'in limbo' with no real chance of enforcement. An appeal would have been expensive and there could have been no certainty that the judgement would have endorsed the Council's policy on disabled access even though the Stipendiary Magistrate had indicated that he would have accepted a policy based solely on wheelchair accessibility. To have gone to appeal would have created a further period of uncertainty and additional costs.

7. Consultation

It was against this background that the Task Group decided it would consult widely with both relevant organisations in West Berkshire and the taxi trade before making recommendations on changes to the 2001 policy on disabled access. Contributions on disabled access to taxis were invited by the Chairman in personal letters to officers of voluntary organisations (the West Berkshire Disability Alliance, MENCAP, Age Concern, and the Newbury Volunteer Service) within the District. The public were invited to comment through the issue of a formal Council press release and subsequent press and local radio articles. Information was disseminated to taxi proprietors in the January 2005 regular Taxi Trade Newsletter circulated by Licensing Officers to those holding taxi licences. Interested parties who responded were then invited to meet with members of the Task Group and discussions were held, as reported below, with:

- Mr Mick Hutchins, Chair of the West Berkshire Disability Alliance
- Mr Karl O'Hagan and Mr Kevin Archibald, Directors of CABCO, Thatcham

- Mrs Judy Beales & Mr Rodney Nemeth, Chair and Vice-Chair of (West Berkshire Hackney Carriage & Private Hire Association
- Mr Richard Brown and Mr Ian Dunn of Theale Taxis.

The Task Group wishes to record its thanks to those who attended the discussions held at the Council Offices on 01 & 24 February 2005 for both their written and verbal input.

TERMS OF REFERENCE

8. Terms of Reference

The Task Group agreed at its first meeting that its discussions should be focussed and that matters which might arise during comment and discussion with the public and the taxi trade which were not directly related to disabled access to taxis in West Berkshire and Disability Awareness Training should be dealt with in another forum. Comment and discussions were thus guided by:

'To propose a policy on access to taxis which would best serve the interests of disabled users of taxis in West Berkshire whilst being fair and proportionate to individual taxi proprietors and the trade as a whole.'

EVIDENCE

9. West Berkshire Disability Alliance

In response to the Licensing Committee's decision to seek the views of the disabled community on access to taxis, the Chair of the West Berkshire Disability Alliance (WBDA) passed a copy of an Action Plan 'Transport Provision for Disabled People in West Berkshire (2005)' to the Chairman. As a member of the Transport Action Group (part of the West Berkshire Partnership), the WBDA had identified five key areas for access, one of which was Access to Taxis. That Action Plan accepted that although there were no clear National/Government guidelines, it would wish all disabilities to be taken into account by the Task Group in revising the Licensing Policy, not just those of wheelchair users. Further, the report concluded that there was no real evidence to suggest that all the taxis in West Berkshire needed to be wheelchair accessible; in fact a consensus of disabled users pointed to the need for a diverse fleet of vehicles. The Task Group accepted that whereas the firmer ride of the Hackney Carriage was suitable in truly urban areas, such vehicles would not be suitable given the rural nature of West Berkshire. Further, WBDA's Chair pointed out during discussion with the Task Group that a diverse fleet of taxis would allow those suffering from a range of disabilities (ambulant problems, sight and hearing disabilities, mental health and learning disabilities) to select the type of vehicle which was best suited to their needs, which they felt confident to use, and found to be most comfortable. The WBDA's report 'Transport Provision for Disabled People in West Berkshire' also called for Disability Awareness Training.

10. Discussions with the Chairman (Mr Mick Hutchins) of the West Berkshire Disability Alliance on 1 February 2005

Referring to the WBDA's report (noted above), Mr Hutchins explained that he had subsequently circulated a questionnaire in December 2004/January 2005 to a range of organisations and groups covering a wide range of disabilities to provide evidence to the Task Group from both organisations and individuals. A total of 111 responses had been received from:

The Ormonde Centre;

MS Society;
Members of the West Berkshire Disability Alliance;
Castle School;
Newbury and Thatcham Hard of Hearing Club;
Polio Society;
Clients of the WBC Physical Disabilities Team;
Newbury Day Centre.

10.1 Survey Results

Those replies covered a wide range of disabilities including spinal injury & MS sufferers, those with sight and hearing problems, people who had suffered from brain damage, polio, arthritis, strokes, Spina Bifida and Cerebral Palsy. An analysis of the responses carried out by Mr Hutchins showed that whereas some 15% were wheelchair users, and an equal number used a wheelchair, 27% had sight and hearing impediments and over 30% had walking difficulties. Over 80% of those responding to the survey were users of taxis with an average of 1.3 journeys a week. The survey results showed that whereas 15 respondents (13.5%) who responded required a swivel seat to access a vehicle, over 80% of this total were wheelchair users who would not be inconvenienced if the vehicle were to be fully wheelchair accessible. A high proportion of disabled users (65.8%) reported that driver/companion assistance was required to a greater or lesser extent in accessing a vehicle and 95% of users were of the opinion that Disability Awareness Training for taxis drivers would be advantageous.

10.2 WBDA Report Recommendations

The WBDA's Survey Report on the problems which the disabled have on accessing taxis in West Berkshire, led to the following recommendations being made which were pertinent to the Task Group's Terms of Reference:

- a that the number of saloon cars in the licensed taxi fleet should not fall below 50%;
- b that the number of wheelchair accessible vehicles should increase year on year subject to a 50% ceiling;
- c that drivers should receive Disability Awareness Training.

11. The Taxi Trade

During discussion with trade representatives the Chairman deliberately confined comment and discussion to matters which were directly relevant to the Task Group's Terms of Reference.

11.1 Cabco Limited

Karl O' Hagan and Mr Kevin Archibald, Directors of Cabco, a co-operative taxi organisation operating a mix of 48 saloon cars, estates, MPVs, conventional Black London style cabs and specially adapted vehicles, noted that they regularly carried people with disabilities and those who were movement impaired. As the largest taxi operator in West Berkshire, the firm takes some 16,000 telephone bookings a month and carries in excess of 300,000 people a year. Meetings had been held with the WBDA as the firm's largest group of disabled passengers was the elderly with reduced mobility. Whereas able-bodied passengers could use any type of taxis, the elderly were seen as preferring a saloon type taxi. MPVs were often seen as too high to enter and the conventional London style cab and specially adapted vehicles required passengers to step up and then stoop on entering the

vehicle. The Company were in agreement with the view expressed by the WBDA that there was no single type of vehicle which could fulfil the needs of all those who used taxis in the District. Commenting on vehicle types in a paper which the firm had prepared for the Task Group, Mr Archibald explained that feedback from those who had sight difficulties favoured the use of saloon cars as taxis. However, there was a need to ensure that only the larger family saloons were used in the taxi role as such vehicles made both entry and travel easier for the elderly and those whose mobility was impaired. The saloon car with swivel seat fitted was not a popular option as passengers often complained of discomfort from hitting their heads on the roof both on entering and leaving the vehicle; taller passengers also cited their heads touching the car's roof lining whilst travelling. Whereas MPVs were popular with taxis drivers as many had a factory-fitted swivel seat, it was pointed out that whilst this seat technically met the Council's licensing criteria, it was not designed by the manufacturer to aid entry or exit from the vehicles, but was a leisure facility for family picnicking. Whereas the MPV had an advantage in that it provided seating for more than four people, it was a higher vehicle which often made entry difficult for elderly passengers. It was noted that the London style taxis could seat five, or be used for wheelchair access. Similarly, the Eurotaxi style vehicles could accommodate seven passengers and also be used for wheelchair passengers.

11.2 Recommendations by Cabco Limited

- a Saloon cars should be a sensible size to allow entry by disabled passengers.
- b MPVs should not be considered as suitable for the taxi trade as they are suitable only for able bodied passengers.
- c Wheelchair accessible taxis were not always as accessible as they should be. Further discussion should take place between the trade, WBDA and the Council to draw up a list of suitable, fully wheelchair accessible vehicles.
- d That Driver Disability Awareness training be undertaken as a licence condition to better the service which the trade provides to disabled passengers.

Within the caveat that a diverse fleet of vehicles was needed, these recommendations were fully in keeping with the comments made by WBDA.

11.3 Theale Taxis

Mr Richard Brown and Ian Dunn attended separate discussions with the Task group on 24 February. They noted that in their experience, the predominance of work involving the carriage of wheelchair disable passengers was undertaken by a few specialist proprietors. Whilst fully endorsing the need for Disability Awareness Training and a diverse fleet of vehicles, the Task Group's attention was drawn to the need to ensure that taxis were standard sized family cars - 17 inches /backside was suggested. Mr Brown and Mr Dunn were not in favour of any condition which restricted the issue of new licences solely to wheelchair accessible vehicles. As there were additional costs in providing and operating wheelchair accessible vehicles, it was felt that proprietors ought to be provided with an incentive - for example lower licence fees, the ability to carry advertising, or privileged access to town centre areas. Further, there was a real need to be precise on what was meant by a wheelchair accessible vehicle. It was suggested that a points system on accessibility features should be introduced with conditions laid down for such things as anchorage points.

11.4 The West Berkshire Hackney Carriage & Private Hire Association - Mrs Judy Beales and Mr Rodney Nemeth, Chair and Vice-Chair of the Association

The Association was fully inclusive and could represent the Trade in West Berkshire with confidence. Members (360 drivers) were represented by a 12-strong Committee which held regular meetings.

Questioned on the views of Association members on the present problems being addressed by the Task Group, Mr Nemeth explained that Trade was fully in favour of Disability Awareness Training. A balanced taxi fleet catering for the needs of all passengers in the District was required. There was a need, however, to ensure that vehicles classified as wheelchair accessible were fit for purpose. It expected that the 'grandfather rights' conferred on licences issued before April 2001 would be respected in any new policy. However, Judy Beales asked that such plates be non-transferable until 2021. Those who complied with the present policy and fitted swivel seats were content with the seats and used them. It was generally accepted within the Trade that the issue of new licences at the conclusion of the moratorium would be restricted to wheelchair accessible vehicles.

TASK GROUP DISCUSSION

12. The Carriage of Disabled People in the District's Taxis – Suitability of Vehicles and Driver Training

The Task Group recognised the need for a balanced taxi fleet with a variety of vehicles which were able to provide a good service for both the able-bodied and the disabled in West Berkshire. In this respect there was agreement across both the WBDA and the Trade that a mix of saloon cars and vehicles which were fully accessible to wheelchair users was required. The Trade drew the attention of the Task Group to the need to ensure that wheelchair accessible vehicles were clearly specified and 'fit for purpose'. Further, there was general acceptance that Disability Awareness Training should be introduced for taxi drivers. The Task Group accepted that the range of disabilities was wide and such a training course should cover the comfort of passengers and the style of driving (avoidance of sudden acceleration and braking) together with the specific needs of blind and partially sighted persons, those who are deaf or hearing impaired, those with speech impediments, the needs of wheelchair users and ambulant disabled people, and those with learning difficulties and mental health problems. As the Licensing Authority, the Task Group accepted that the Council had a duty of care to passengers using licensed taxis operating in the District. In this respect, the Task Group fully supported the suggestions made for Disability Awareness Training and was very pleased to hear of the trade's acceptance of such a condition. The Task Group had not had the opportunity to determine whether there was any suitable course currently available in the area. However, it was understood that talks were ongoing between Council Officers and the Ormonde Centre. This matter would require further definition and negotiation and the Task Group accepted that it would not be possible to introduce such a condition immediately. That said, it should be possible to make attendance at such a course a condition of new licence within 12 months. Such training should also be made available to existing drivers so that they could be seen as being 'fit and proper persons' to deliver a public service.

13. Proposed Licence Conditions to Support the Access to Taxis of Disabled People in West Berkshire

The recent application of further parts of the Disability Discrimination Act 1995 will improve disabled access, particularly for wheelchair users, to facilities in the District. This will inevitably lead to the need for a taxi service which has the ability to carry additional wheelchair disabled persons. Currently, there is only limited provision within the taxi fleet to carry wheelchair users. In considering the way forward, to sort out the problems brought about by the earlier policy decision and the subsequent appeal against it, the Task Group recognised that there were basically three groups of taxis proprietors to consider:

- Those holding pre-2000 licenses whose rights were preserved by the 2000 policy decision;

- Those applicants who met the conditions on disabled required by the licence they were granted by providing either fully wheelchair accessible vehicles or by fitting the vehicle with a swivel seat;
- Those applicants who were granted a conditional licence subject to the provision of disabled access but who did not meet that condition either prior to the appeal or subsequently.
- New applicants for licenses.

14. The Task Group recommended that these be agreed by the Licensing Committee and asked that Officers reflect these points in drafting the revised Conditions.

- Firstly, that given the evidence of both need and usage put forward by the WBDA, and the comments from the Trade, there was a proven requirement to provide for disabled access to taxis within West Berkshire.
- That there was a need to balance the requirements of both able-bodied and disabled users in the District, and Members were of the opinion that a mixed fleet of vehicles was required. It would not, therefore, be appropriate, given the rural nature of the District and the diverse needs of disabled users, to propose a policy which called for 100% of vehicles to provide wheelchair access.
- That those holding licences granted before 2000, the group presently not subjected to conditions requiring disabled access, should continue to be free from such conditions subject to any national legislation which might be introduced at a later date. Given that it was likely that this group would continue to operate saloon cars, customers who had a preference for such vehicles on the grounds of comfort, or suitability for their particular disability, would be provided for in the short to medium term future. The Task Group was opposed to any move to enforce provision of disabled access by this group as this could be seen as retrospective legislation and an arbitrary change to licence conditions.
- That applicants who were granted licences subject to disabled access conditions, and who met those conditions by providing either wheelchair access or a swivel seat, should remain subject to those conditions. Whereas the Task Group noted that some customers had expressed concerns about the comfort of vehicles adapted to take swivel seats (particularly taller customers), there was no evidence that the seats were intrinsically unsafe. They provided an aid to some disabled passengers and the Task Group felt that given the need for a balanced and diverse fleet such seats should be retained. To allow removal of the swivel seats would reduce the number of vehicles available for use by the disabled by a significant percentage. This would be contrary to the Council's Corporate Aim of providing fully inclusive services. Where, however, the proprietor felt on a change of vehicle that full wheelchair accessibility rather than swivel seat enhancement should be provided such a change should be allowed.
- Given that there was a need to increase the proportion of vehicles offering access for the disabled within the West Berkshire fleet of taxis, so as to provide an enhanced transport opportunity for the disabled, the Task Group recommended that all new licences should be granted on the condition that vehicles provided full wheelchair accessibility. This would gradually lead over a period of years to a higher proportion of vehicles offering fully disabled access.
- The Task Group considered very carefully what conditions should be applied to those applicants who accepted a licence on the condition that they would provide some form of disabled access - through either full wheelchair accessibility or the installation of a swivel seat

- and who had continued to operate but had failed to meet that condition. Whilst fully accepting the appeal judgement on the totality of Council's policy on disabled taxis access, the Task Group noted that the Stipendiary Magistrate had stated that if the Council had sought to apply a condition based solely on full wheelchair accessibility he would have upheld the Council's right so to do. Accordingly, the Task Group recommend that conditions imposed on applicants who were granted such a licence be enforced and that applicants who had not provided a swivel seat or a fully wheelchair accessible vehicle be required to provide vehicles with full wheelchair accessibility. Given that such licences had now been operative for a number of years, the Task Group felt that it would not be unreasonable to require operatives who had not met the spirit of the licence condition by providing access for the disabled, that they should be required to do so by 1 September 2006.

- g. That Disability Awareness Training be introduced as a Licence condition at the earliest opportunity for all initial taxi driver applications and thereafter on renewal of licences, with Officers being charged with determining the most appropriate training.
- h. That Officers should research vehicle and associated technology with the aim of identifying those factors which should be taken into account to ensure that the West Berkshire taxi fleet is fit for purpose.

02 March 2005

Cllr G S Findlay
Chairman of the Task Group