

Note: Minutes indicated as **DRAFT** will remain so until approved at the next meeting of the Committee

## **LICENSING COMMITTEE**

### **MINUTES OF THE MEETING HELD ON 1 NOVEMBER 2005**

**Councillors:** Andrew Rowles (*Chairman*) (P), Peter Argyle (P), Billy Drummond (P), John Farrin (*Vice-Chairman*) (P), Geoff Findlay (P), Manohar Gopal (AP), Sally Hannon (P), Roger Hunneman (P), Owen Jeffery (P), Tony Linden (P), Mrs Irene Neill (AP), Alexander Payton (P), Quentin Webb (P)

#### **PART I**

##### **10. APOLOGIES.**

Apologies for the inability to attend the meeting were received on behalf of Councillors Irene Neill and Manohar Gopal.

##### **11. MINUTES.**

The Minutes of the meetings held on 21 June 2005 was approved as true and correct records and signed by the Chairman.

##### **12. DECLARATIONS OF INTEREST.**

There were two declarations of interest received from Councillors Tony Linden and John Farrin. They both declared a personal interest in item 5 as diabetics but remained to take part in discussion of Item 5.

##### **13. GUIDANCE NOTES ON THE RELEVANCE OF CRIMINAL RECORDS IN RESPECT OF APPLICANTS FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE.**

In June the Committee considered a report (Agenda Item 4) concerning a review of the criminal records guidance to Officers used in the determination of fitness of an applicant to drive a taxi. In February 1993 Members of the then Hackney Carriage Sub Committee approved a document produced by the DOT which gave advice and guidance to Licensing Officers when considering the relevance of criminal convictions for those applying for taxi driver's licences. This guidance was now outdated and revised guidance notes, set out in Appendices 4(a, b and c), reflect changes in legislation and procedure, including the Council's Corporate Policy on Criminal Records Bureau Searches. The Committee was informed that the draft guidelines would improve clarity when considering taxi licenses. Since that meeting consultation had taken place with the trade, legal services and within the council's own transport services department on the new guidance and this had resulted in those guidance notes being brought back to this Committee unchanged for your approval. The licensing manager then introduced an amendment that had been requested by legal services to be added to the guidance notes.

Members are urged – if minded to approve the amended Guidance on the Relevance of Convictions – to resolve that: "Applicants should note that the Council reserves the right to exercise its discretion to suspend or [in exceptional circumstances] to revoke a "taxi" drivers licence, if the Council becomes aware that that person has been charged with any offence." This means, in effect, that the Council may suspend or revoke a licence prior to conviction for a criminal offence.

Members raised a number of questions and concerns during their discussion relating to the new amendment:

- Where a taxi driver was charged with a criminal offence but had not yet been tried whether a suspension of his license was considered to be reasonable? Several members were of the view that to revoke that license before any conviction had been secured was unacceptable.
- It was only envisaged that this would be used in exceptional circumstances such as offences of a violent or sexual nature or repeated drink-drive offences. Members were advised that there was existing case law that supported revocation prior to conviction.
- It was confirmed by officers that there had been no consultation on the amendment. Officers agreed that there was still time for further consultation if Members so wished.
- It was confirmed that taxi drivers retained the right to raise an appeal against any suspension or revocation of a license through the Magistrates' Court. It was noted that following the lodging of any appeal that the driver would be able to go back to driving until such time as the appeal was heard.

Members were agreed that it was the revocation of the license prior to a conviction being secured that was the issue. It was agreed that further consultation should be conducted with the trade and within the council's own transport services department to determine their views on the amendment.

**RESOLVED** that the revised standards, as set out in the report be approved but that the amendment should go out to consultation with the taxi trade and other interested parties and the results brought back to a future meeting of the Committee for consideration.

Voting 10 in favour with one against

#### 14. **MEDICAL STANDARDS FOR DRIVERS OF TAXIS.**

Brian Leahy (Senior Licensing Officer) introduced the paper to confirm the Council's position on the application of Group 2 Medical standards and to include Group C1

The Department of Transport have recently (02 August 2005) issued "Taxi and Private hire Vehicles - Best Practice Guidance 2005". The guidance follows the publication in November 2003 by the Office of Fair Trading of a market study of the regulation of taxi and private hire vehicles in the UK. Section 42 of this guidance relates to Medical Criteria and the use of category C1 as an addition to a DVLA driver's licence.

C1 is a standard that applies to drivers of vehicles up to 7.5 tonnes and allows for exceptional arrangements to exist for drivers of C1 vehicles, who can meet a series of medical criteria. The guidance goes on to cite the Secretary of State's Honorary Medical Advisory Panel and it suggests that best practice would be to apply the C1 standards to taxi drivers with certain medical conditions. This change allowed the Council to provide more flexibility when determining the significance of a medical condition of an individual driver in particular the ability of the individual driver to control the illness concerned. It was your officer's recommendation that the Medical Criteria and the use of category C1 as an addition to a DVLA driver's licence should be applied.

Members during their discussion raised a number of comments and questions:

- It was confirmed that medical practitioners would make recommendations about the type and control of an individual illness relating to a driver.
- It was confirmed that the Government position in terms of the guidance it had issued on this matter in 2001 was wrong and had been changed
- It was agreed that diabetes was an increasingly common disease with 1.8 million diagnosed sufferers in the UK and probably a further 1 million sufferers that remain undetected. Diabetes was an excellent example where the individual was able to demonstrate control the illness through diet or injection of insulin.

- Some reservations were expressed that the ordinary motorist was able to take breaks as and when he needed and that was not necessarily the case for a taxi driver when under hire.

**RESOLVED that** to agree to the continuing application of Group 2 Medical Standards including Group C1.

Voting was unanimous

## 15. UPDATE ON TAXI LICENSING.

Brian Leahy provided the Committee with a verbal update on taxi licensing as follows:

- Consultation had been taking place with the trade on awareness training.
- A paper would be introduced at the next Committee defining the Council's policy on awareness training and a programme to deliver that training to new and existing taxi drivers on dealing with disabled people.
- A further 5 disabled access licences had been approved and more new enquiries have been received
- There had been no reduction in the number of renewals of existing taxi licences
- To date there had been just one appeal against the condition out of approximately 250 licences. The appeal was based on the condition was unreasonable and would be coming before the Magistrates' Court shortly. It would appear that the majority of the Trade accepted the condition.
- Applications for blacked-out windows on vehicles for private hire were being requested. Officers were concerned at the lack of external visibility and passenger safety may then be compromised. Details of research on this matter will be presented to a future Committee meeting for Members consideration.

## 16. UPDATE ON LICENSING REFORM.

John Priest provided the Committee with a verbal update on the progress made on the licensing reform that had taken place since the last Committee meeting:

- All applications had to be submitted by the deadline of 6 August
- In total some 417 applications had been received with nearly 54% of these being submitted in the final week running up to the 6 August deadline.
- The Council was still receiving about 6 applications per week for variations against new licences
- 142 new licences had been signed and sent out to applicants and about 18 new licences per day were currently being processed.
- There were 4 licences that had been properly submitted but were not heard within the statutory period that have gone to appeal at the Magistrates' Court.
- The Council had received about 500 personal licences before the 6 August with 22 late applications being made. Of these, 202 had been issued, no refusals had been made and only one objection had been lodged.

The implementation date for the new licensing system will be 24 November 2005. By then about 99% of licensed premises will be ready and only one or two premises will fail. The Council expects to take a flexible approach to enforcement but it is thought that the need for enforcement will be unlikely.

Temporary Events Notices (TENs) come into effect on the 24 November 2005. Officers will report back on their experience to Members at the next Committee meeting. It is only the Police that can

object to a TENs based on limited grounds. The introduction of TENs will produce some new challenges for Public Protection service in terms on monitoring and management.

Members during their discussion raised a number of comments and questions:

- What happens on/after 24 November? – The Council will be working in conjunction with Thames Valley Police. Initially they will prioritise their efforts around about 20 of the West Berkshire's difficult public houses and can only respond to complaints and incidents.
- The calling in process can be used by residents or agencies to have a licence determined and the original application will then be re-heard. The licence may then be varied or revoked, the applicant retains the right to appeal to the Magistrates' Court.
- Concerns were raised that some licensees were paid a bonus on the volume of alcohol sold. West Berkshire's licensing policy could be reviewed by Members in light of real experience under the new licensing system. The two key areas of enforcement were under age sales and sales to the intoxicated. We can expect further guidance to be issued from Government and may yet get greater powers of enforcement.
- There were some important lessons learnt from the initial licensing hearing process – it was important for Members to hold pre-hearing meetings to understand and discuss issues of each case, day time hearings were often not convenient for objectors to attend
- Members felt it would be useful if Environmental Health were to give a report on whether there was an increased reporting of public nuisance following the introduction of the new licensing regime at a future meeting
- Members were advised that after 24 November 2005 the Police will be able to serve fixed penalty notices for breaches of the new licensing regime
- Members asked about reviewing the Council's licensing policy, however officers suggested it might be better to wait until the new guidance from the DCMS was issued (expected 24 November 2005) before re-considering
- It was felt that the press had worked up public opinion and feeling on the new licensing act. It would be important that the public were encouraged to report any issues. Officers confirmed that a leaflet had been sent to West Berkshire households giving details on how to report any issues
- A question was asked on how the costs of the new licensing system were working out. It was currently expected that savings of the order of £20k – £30k against planned budget spend were to be expected

It was expected that the Government would introduce its new gambling act very shortly and the Council will be required to develop its policy on the act by the end of March 2006. It was planned to set up a Working Group in January to address this requirement.

The Chairman of the Committee proposed that a formal vote of thanks be recorded in the minutes noting the significant contribution made by officers, members and the police to cope with substantial workload generated by the new licensing system. Individual letters thanking all those involved were being sent out.

For information to the Committee, Councillor Geoff Findlay reported that he had received a request from Mr Nemeth to re-open discussions originally heard by the Committee on the 14 March with regard to the condition set on disabled access on vehicles for hire which was due to come into operation on 1<sup>st</sup> April 2006. He was requesting that it should be reconsidered. Councillor Geoff Findlay had confirmed that comprehensive review had taken place and after careful consideration the Committee had made the recommendation to adopt that change. He confirmed that the condition should stand.

**LICENSING COMMITTEE – 21 JUNE 2005 – MINUTES**

**DRAFT**

Note: The Licensing Committee meeting scheduled for the 5 December would be cancelled and the next meeting of the Licensing Committee would be called at the end of January or in early February 2006 date to be agreed.

*(The meeting commenced at 6.30 p.m. and closed at 7.55 p.m.)*

**CHAIRMAN** .....

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