

Notice of Meeting

Licensing Committee

**Tuesday, 16th December, 2014 at
6.30 pm** in the Council Chamber, West
Berkshire Council, Market Street,
RG14 5LD

Date of despatch of Agenda: Friday, 5 December 2014

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Jo Naylor on (01635) 503019
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Further information and Minutes are also available on the Council's website at
www.westberks.gov.uk



Agenda - Licensing Committee to be held on Tuesday, 16 December 2014 (continued)

To: Councillors Peter Argyle (Chairman), Paul Bryant, Billy Drummond, Adrian Edwards, Sheila Ellison, Manohar Gopal, Tony Linden, Mollie Lock (Vice-Chairman), Geoff Mayes, Andrew Rowles, Ieuan Tuck and Quentin Webb

Agenda

Part I	Page No.
1. Apologies To receive apologies for inability to attend the meeting (if any).	
2. Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 03 June 2014.	1 - 2
3. Declarations of Interest To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or other interests in items on the agenda, in accordance with the Members' Code of Conduct .	
4. Specially Adapted Taxis <i>Purpose: To inform Members of a request for all front passenger swivel seats to be removed from licensed taxis.</i>	3 - 88

Andy Day
Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.

DRAFT

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

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 3 JUNE 2014

Councillors Present: Peter Argyle (Chairman), Billy Drummond, Adrian Edwards, Sheila Ellison, Manohar Gopal, Tony Linden, Mollie Lock (Vice-Chairman), Geoff Mayes, Andrew Rowles and Ieuan Tuck

Also Present: Sarah Clarke (Team Leader - Solicitor), Julia O'Brien (Principal Licensing Officer) and Jason Teal (Performance, Research & Consultation Manager), Eve Jones (Lead Officer Licensing)

Apologies for inability to attend the meeting: Councillor Paul Bryant and Councillor Quentin Webb

PART I

1. Minutes

The Minutes of the meeting held on 26 September 2013 and 15 May 2014 were approved as a true and correct record and signed by the Chairman, subject to the inclusion of the following amendments:

Item 2, page 5, points 1 and 3: It was noted by the Chairman that '2013/14 Municipal Year' should read '2014/15 Municipal Year'.

2. Declarations of Interest

There were no declarations of interest received.

3. Taxi / Private Hire Legislation Update

The Committee considered a verbal report (Agenda Item 4) concerning the Law Commission Taxi and Private Hire Vehicle Draft Bill update.

Julia O'Brien verbally updated the Committee on the release of draft legislation intended to supersede current taxi and private hire legislation.

The Committee noted the draft legislation had only been published within the last fortnight and that Officers were still in the process of distilling and digesting the content. As such, a fuller appraisal of the changes proposed in the draft Bill and their implications would be circulated to Members of the Committee in due course.

It was noted that a number of recommendations had been passed into the draft Bill but that at present, no times scales had been published for the Bill's passage through Parliament but it was thought unlikely that the Bill would pass through Parliament before the next election.

Eve Jones gave a brief presentation of the key issues in the draft Bill:

- The Bill proposed to retain the taxi system as two tier.
- 'Private hire operators' would be called 'dispatchers'. It was noted that there were a lot of changes in terminology in the draft Bill.

LICENSING COMMITTEE - 3 JUNE 2014 - MINUTES

- A national standard for private hire vehicles was proposed, meaning that vehicles would need to be maintained to an equal minimum standard across the country. However, stronger local conditions could be applied on top of these minimum standards.
- The Bill provided for more enforcement powers for Officers. For example, the Bill proposes that Officers would be able to stop vehicles both within and without the area and that Officers would be able to issue fixed penalties.

In response to Member’s questioning, Eve Jones made the following points:

- Cars registered in Reading Borough could not be hailed on the street within West Berkshire’s boundaries. She confirmed that cars registered in other areas could be pre-booked to come into the area to pick up clients. Eve clarified that were a hackney carriage to be hailed on the street outside of its area and it picked up that client then the car and driver would be uninsured.
- The term ‘dispatcher’ meant the person in the office who took the booking – currently called the ‘operator’.
- Holding a UK driving licence was a condition on holding a taxi license in West Berkshire, therefore a non-UK driving licence holder could not apply for a taxi licence.

RESOLVED that:

A further, fuller update would be circulated to the Committee via email.

4. Animal Boarding Establishments Act 1963

The Committee considered a report (Agenda Item 5) concerning the Animal Boarding Establishments act 1963.

Julia O’Brien introduced the report to the Committee outlining an amendment to the Animal Boarding Establishments Act 1963 to extend to the animal boarding license to include the boarding of animals as a business in private dwellings, commonly called ‘home boarding’.

It was noted that this had become an increasingly popular option for dog owners in recent years.

Julia O’Brien outlined that the Council would be inviting applications for licences from known home boarders, noting that these would be issued within conditions appropriate to the premises and the surroundings in which the animals were kept.

Julia confirmed that the annual fee would be £170 per year.

In response to questioning from Councillor Adrian Edwards, Julia O’Brien confirmed that people licensed as home boarders were required to have insurance and that Officers would take enforcement action against known home boarders who refused to register for a license.

As a point of clarity, Julia O’Brien confirmed that this amendment to the legislation applied to those whose business was to keep and look after a dog in their home environment and that the legislation would be interpreted in an appropriate manner.

(The meeting commenced at 6.30 pm and closed at 6.55 pm)

CHAIRMAN

Date of Signature

Agenda Item 4.

Title of Report:	Specially Adapted Taxis
Report to be considered by:	Licensing Committee
Date of Meeting:	16 December 2014
Forward Plan Ref:	N/A

Purpose of Report: To inform Members of a request for all front passenger swivel seats to be removed from licensed taxis.

Recommended Action: To replace all swivel seated vehicles with wheelchair accessible vehicles by 1 April 2016 or at the next change of vehicle, whichever is the sooner.

Reason for decision to be taken: Request from the Hackney Carriage Trade to review the condition for swivel seats.

Other options considered:

1. Do nothing until the Government have decided if the Taxi & Private Hire Bill will become legislation.
2. Require all taxis to become wheelchair accessible, by a date to be decided.
3. Allow all swivel seated vehicles to become free of disabled access provisions.

Key background documentation:

1. Testing of the ELAP seat January 2000.
2. Accessibility to taxis for people with disabilities - WBC's requirements re SAV's.
3. Briefing Note - Access for Disabled People in Taxis.

The proposals will also help achieve the following Council Strategy principle:

CSP5 - Putting people first

Portfolio Member Details	
Name & Telephone No.:	Councillor Dominic Boeck - Tel 07956 546506
E-mail Address:	dboeck@westberks.gov.uk
Date Portfolio Member agreed report:	03 December 2014
Contact Officer Details	
Name:	Brian Leahy
Job Title:	Team Manager Licensing
Tel. No.:	01635 519494
E-mail Address:	bleahy@westberks.gov.uk

Implications

- Policy:** An decision to change licence conditions would be incorporated into any current policy.
- Financial:** There are no financial implications for the Council regardless of the outcome of this report.
- Personnel:** None
- Legal/Procurement:** Any new or changed conditions will become mandatory by virtue of section 47 Local Government (Miscellaneous Provisions) Act 1976. Conditions attached to taxi licences may be appealed through the Magistrates' Court should the licence holder be aggrieved at the condition.
- Property:** None
- Risk Management:** None

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?			<input type="checkbox"/>	<input type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?			<input type="checkbox"/>	<input type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?			<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?			<input type="checkbox"/>	<input type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality – EIA Completed				<input checked="" type="checkbox"/>
Not relevant to equality				<input type="checkbox"/>

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The Council currently has a taxi licence condition which requires all newly licensed vehicles to be wheelchair accessible. Some vehicles first licensed before 15th March 2005 were given a dispensation from becoming wheelchair accessible but were required to fit a front passenger seat which had the ability to swivel to the near side to facilitate access for those with some movement restrictions. This condition evolved over a number of years and all relevant information is covered by appendices to this report.

2. Proposals

- 2.1 Members are asked to consider the content of the report having taken into consideration all associated information provided and officer's recommendations and decide if the current condition on swivel seats should be updated.

3. Equalities Impact Assessment Outcomes

- 3.1 An Equalities Impact Assessment has been completed. Consultation has been carried out with the Council's Access Officer and with the Chairman of the West Berkshire Disability Alliance. By adopting officer recommendations the disabled, elderly and infirm population of West Berkshire would be better served through the provision of taxi/private hire passenger services.

4. Conclusion

- 4.1 Although the taxi trade would welcome a decision in this matter, Members should be aware that the Government published a Bill earlier this year which was intended to be made available for full consultation before being approved by Parliament. The Government has however stated that they do not intend to move the Bill forward, certainly during this Parliament and with no indicator beyond May 2015.

Executive Report

1. Introduction and Background

- 1.1 This report has been written following a request from members of the taxi trade to review a condition which was imposed by the Licensing Committee in 2005. This decision to impose the condition followed a long period of discussion, consultation, legal actions and Committee deliberation. The build up to the decision being taken is important for Members to understand and is complicated. The report addresses the background in chronological order for ease of referral.
- 1.2 At a meeting of the Public Protection Committee held on the 6th June 2000, the Committee resolved to;
 - 1.2.1 Adopt in principle, a number of proposals and instruct officers to consult with interested parties, including parish councils and trade associations, some of which were;
 - 1.2.2 Introduce a requirement that all new licences issued have a condition attached that vehicles be suitable for wheelchair users and other people with disabilities.
 - 1.2.3 All existing licence holders to continue to use saloon cars as long as legislation allows;
 - 1.2.4 require all transferred licences to change to wheelchair accessible vehicles (SAV's) the next time the vehicle is changed.

The report and minutes are attached as Appendix A.

- 1.3 At a meeting of the same committee held on the 3rd July 2000, Members were presented with a report which described the outcomes of consultation with trade associations and parish/town councils on proposed changes to taxi licensing arrangements adopted in principle by the Committee on 6th June 2000 and options for decision.
 - 1.3.1 The report covered a number of taxi related matters however as this report relates only to swivel seats in respect of disabled accessibility other subject matter is not reported.
 - 1.3.2 Responses to the consultation referred to in 1.3 above were as follows;
 - 1.3.3 Town and Parish Councils were sent a copy of the Committee report from the meeting on the 6th June 2000 and replies were received from eight. None of the responses addressed the issue of wheelchair accessible vehicles.
 - 1.3.4 At the time of the meetings there were two active trade associations consulted. These were the Town Association and the District Association. These bodies did address the issue of SAV's with the Town association accepting the requirement that all new licences should be issued only to vehicles which have been suitably adapted for use by disabled and the District association supporting the requirement that all new licences issued be for SAV's.

1.3.5 Options put forward for consideration at this meeting clarified a definition of a Suitably Adapted Vehicle (SAV).

Suitably adapted vehicles for use by disabled persons will include:

- (a) Any Metrocabs, Eurocabs, FX1 (or any other like vehicle)
- (b) Any vehicle which has been adapted or modified to provide improved access for disabled persons, together with storage and carrying capacity for any equipment that they may have (e.g. Wheelchair) and which does not preclude the carriage of normal quantities of luggage and personal belongings.
- (c) In the event of dispute between the applicant and the Council as to whether or not a vehicle meets the SAV requirements, the West Berkshire Liaison Group on Disabled Access shall be invited to arbitrate. Any vehicle subsequently approved under this procedure shall be included in a "Type Approved" list.

NOTE:

While this mechanism cannot be guaranteed to meet DETR and DTI requirements, it is thought to be unlikely that either department would argue against it as an appropriate way forward.

The report is attached as Appendix B.

- 1.4 The minutes of the meeting of the 3rd July 2000 show a resolution to "approve Option 5 (the option including the SAV condition) as the way forward -a period of derogation for existing licence holders and transferees to switch to vehicles "suitably adapted or designed for ease of use by disabled passengers" (SAV's), and impose a requirement for persons who were not West Berkshire Council taxi licence holders as at 6th June 2000 to provide an SAV within a specified period.

The minutes of this meeting are attached as Appendix C.

- 1.5 In response to this condition being approved by the Public Protection Committee, an application for Judicial Review was sought by Rodney James Nemeth, a West Berkshire Council hackney carriage licence holder in July 2000.

- 1.5.1 The Judicial Review was heard by the Honourable Mr Justice Hunt on the 6th and 8th of December 2000 when he dismissed the claim on behalf of Mr Nemeth.

Judicial Review application and decision are attached as Appendix D.

- 1.6 As a result of the Judicial Review decision, conditions for Hackney Carriage Proprietor (Vehicle) Licences were amended. These conditions included the following definition;

- 1.6.1 Definition of Suitably Adapted Vehicle (SAV)

Either:

- a) a saloon car fitted with at least - a seat that swivels on its own axis or; a swivel seat that also slides out

- b) a vehicle with full wheelchair access - including fixing points, straps, anchors and ramps.

This condition is attached as Appendix E.

- 1.7 The decision to introduce a disabled access vehicle policy had been considered in order to comply with the Disability Discrimination Act 1995 (DDA) however these requirements were never implemented and have now been superseded by the Equalities Act 2010.
- 1.8 Notwithstanding the Government's decision to not go ahead with the disabled access vehicle policy through the Disability Discrimination Act, Councillors decided that there was sufficient justification in proceeding with the condition to require disabled access vehicles for all new licences and to allow those vehicle owners who qualified to fit swivel seats. However further and extensive consultation was carried out prior to the condition being implemented.
- 1.9 A report was presented to Members at the Licensing Committee meeting held in September 2004 when they decided to place a moratorium on issuing any new taxi licences until the outcome of a pending appeal against the condition was determined.
- 1.10 A small number of taxi operators (6) decided to challenge the Council in February 2004 on the proposed conditions, through the Magistrates' Court. The outcome of the appeal was that the Stipendiary Magistrate allowed the appeal as he felt that the swivel sets, although safe, were not suitable for all passengers. However he noted that, had the Council chosen to impose only the fully wheelchair accessible option, the appeal would have been dismissed. As only 6 taxi operators appealed the condition, it was only legally binding to them and as no further appeals were forthcoming, the condition still applied to all other affected operators.

The Judges' summing up and comments are attached as Appendix F.

- 1.11 Further discussions and reports were presented to the Committee over the disabled access issues culminating in a report to the Licensing Committee on 14th March 2005 when the Committee resolved that:
- (2) a mixed fleet of vehicles be maintained in service;
 - (3) those taxis licensed before April 2001, the group presently not subject to conditions requiring disabled access, should continue to be free from conditions relating to disabled access, subject to any national legislation which might be introduced at a later date.
 - (4) applicant's 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;
 - (5) all taxis first licensed from 15th March 2005 should be granted on the condition that vehicles provide full wheelchair accessibility;
 - (6) unadapted taxis (that is taxis licensed after April 2001 which were not equipped with either a swivel seat or that could provide full access to wheelchairs) should provide

full wheelchair accessibility from either the next change of vehicle or 1 October 2006, whichever was the sooner.

The report and minutes of this meeting are attached as Appendix G.

1.12 A further report was submitted to Committee on this subject on 26 April 2005.

The report and minutes of this meeting are attached as Appendix H.

2. Current Position

2.1 Since the 15th March 2005 all newly licensed taxis have been required to be licensed as wheelchair accessible vehicles.

2.2 The current fleet is made up of the following numbers;

Wheelchair accessible taxis	88 which equates to 46%-
Swivel seated vehicles	29 which equates to 15%
Un-adapted vehicles (protected vehicles)	72 which equates to 39%

2.3 In addition to the taxi fleet the Council licences private hire vehicles of which there are 138, none of which are wheelchair accessible.

2.4 In total this gives a fleet of public transportation vehicles, licensed by the Council, of 327. 190 (58% of the total fleet), of which may be flagged down pick up at a rank or be pre booked and 138 (42% of the total fleet) which may only be pre booked

2.5 The total number of drivers licensed by the Council is 394.

3. Trade Position

3.1 Although there are only 29 vehicles fitted with swivel seats, the owners of these vehicles believe that they are not really suitable as a device for assisting the elderly, infirm or disabled passengers and would like the conditions which require this facility overturned.

3.2 As can be seen from the appendices reports a great deal of thought and deliberation went into agreeing conditions at the time and those who chose to fit a swivel seat did have the option to adapt or purchase a vehicle which was wheelchair Accessible.

3.3 We are now in the position of all vehicles newly licensed since March 2005 having wheelchair accessibility vehicles with some who were licensed prior to March 2005 having opted for the wheelchair accessible vehicle option, and the original "Town Zone" taxis (un-adapted vehicles) which were afforded a full dispensation from becoming specially adapted as long as the vehicle remained in the ownership of the proprietor as of 1 April 2001 or his/her family.

3.4 In the trades requests for this condition to be reviewed some of the reasons given are safety issues (ruled out by District Judge English), that the seats do not achieve means testing and that some proprietors are now in a position where they wish to change their vehicles, but would like to know the Council's position. It would be unreasonable for the Council to require a proprietor to purchase a new vehicle, pay

for a seat being transferred to the new vehicle and then change its position in the near future.

4. Position of the Disability Alliance and the Council's Access Officer

4.1 The Chairman of the West Berkshire Disability Alliance has been consulted and on behalf of his organisation he supports the recommendation.

His comments are attached as Appendix I

4.2 The Council's Access Officer has commented on the proposals and she supports the recommendation.

Her comments are;

I confirm that I share the view of the West Berkshire Disability Alliance in maintaining a mixed fleet and keeping the swivel seat in the equation by converting them to full WAV's (wheelchair accessible vehicle).

This would maintain our status quo in % of accessible vehicles on the fleet.

Although we are fully aware that wheelchair users are less than 8% of disabled population, it is this group would experience the greatest difficulty if we adopted option 1. By making this figure worse I suggest that we could be challenged. If we keep the figure of 61% this gives a very positive message to all. In every area I work within, my bottom line justification is: where we can't make it better, never make it worse.

5. Conclusion

5.1 The 29 licensees who currently have a swivel seat condition on their licence have not been consulted directly. However, each of these licence holders has received a copy of this report and could, at the Chairman's discretion, ask for standing orders to be removed in order for them to state their case for either the recommendation or the options provided in this report. Alternatively, Members could opt for the 29 vehicle owners to be consulted prior to any decision being made.

Appendices

Appendix A - Committee Report and Minutes 6 June 2000

Appendix B - Committee Report 3 July 2000

Appendix C- Minutes of Committee Meeting 3 July 2000

Appendix D - Notice for application for permission to apply for Judicial Review and other Court papers

Appendix E - Additional Hackney Carriage Proprietor (Vehicle) Conditions

Appendix F - Magistrates Court Transcript

Appendix G - Committee Report and Minutes 14 March 2005

Appendix H - Committee Report and Minutes 26 April 2005

Appendix I - E Mail Chairman of West Berkshire Disability Alliance to B Leahy

Consultees

Local Stakeholders: Hackney Carriage Proprietors, West Berkshire Disability Alliance

Officers Consulted: Sarah Clark Solicitor Team Leader, Valerie Witton Access Officer

Trade Union: N/A

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Appendix A

ITEM FOR DECISION

L/6/00

ITEM 3

ITEM 3

Taxi Licensing

PURPOSE: To update Members on the findings of the transport consultants appointed to examine demand for taxi services across the district. To determine how the findings of the report should be implemented.

1. Background

1.1 The Council has the responsibility for the administration of the Hackney Carriage (taxi) licensing system in the West Berkshire area. Members may be aware that within West Berkshire there are effectively two completely separate zones for the purpose of taxi licensing. One zone covers the area of the Former Borough of Newbury (Town) and the second zone covers the remainder of the Council's administrative area (District). The rationale as to why this arrangement legally exists is as follows:

- (1) Prior to 1974 the former Borough of Newbury was the only part of our current administrative area that had a taxi licensing regime. The reason for this was that under the Town Police Clauses Act 1847 this was the only part of the current administrative area that could license taxis.
- (2) The Local Government Act 1972 had the effect of creating the administrative area of Newbury District in 1974 from the former Newbury Borough and a number of former rural districts. The Act also allowed the newly formed Newbury District Council to extend taxi licensing to the whole of its area. The Council did not adopt this course of action.
- (3) The Transport Act 1985 introduced taxi licensing for all areas of the country that did not previously have a licensing regime. This came into effect in 1987 and (because the Council did not extend the existing licensing area as permitted by the 72 Act) had the effect of creating a second licensing area.
- (4) The two licensing zones have to be run independently. For example, if a vehicle operates in both licensing areas it is required to have two plates and hold two licences. If a vehicle is only licensed in one area (as is normally the case) it can only ply for hire in that area.
- (5) These provisions relate only to taxis (vehicles which can be hailed in the street or at a rank and which have meters to calculate the fares) Private hire vehicles, though often referred to as "taxis" are in fact outside the zonal controls. These vehicles cannot ply for hire, be hailed in the street or stand on ranks, but must be pre-booked via an office. There are no limits on the number of such vehicles which can operate in the area.

1.2 Under the Transport Act 1985 the Council is permitted to limit the number of licences in any particular licensing zone providing it is satisfied that there is 'no significant unmet demand' in that area. The Council has a long-standing policy of restricting the number of Town licences issued whilst there is no such policy in operation in the District. In order to restrict the number of licences issued the Council must remain satisfied that there is 'no significant unmet demand'. The method of determining this is that from time to time the Council must carry out an assessment of demand.

- 1.3 Prior to 1989 the number of Town taxi licences issued stood at 44. A demand survey undertaken in 1989 raised this figure to 60. In 1996 the figure was increased to 65. Meanwhile in the District zone the number of licences has been steadily rising and in the autumn of 1999 stood at 129 a large number of which had been issued in the foregoing two years. At this time a decision was made by the Head of Public Protection that there should be a temporary halt placed on the issue of District licences pending a survey of 'unmet demand'.
- 1.4 At its meeting on the 6th January 2000 the Public Protection Committee approved the commissioning of an 'unmet demand survey' in both zones along with the necessary budget. The surveys were subsequently commissioned from MCL Transport Consultants who are recognised as one of the Country's leading experts in this field.
- 1.5 The surveys were carried out in both zones in March 2000. The reason that March was chosen was that it was a time of year when there was no distortion of demand as may be found in, for example, the periods before and after Christmas or the school holidays.
2. Methodology
- 2.1 A representative of MCL will present a full report on the methodology and findings of the surveys verbally to the Committee. In essence, the survey consisted of a combination of rank surveys and consultations with various interested parties and members of the local community.
3. Rank Surveys
- 3.1 In the Town surveys were carried in the following locations:
- Market Place (including the Wharf feeder rank which is used on market days)
 - Northbrook Street (East) – Taxi Rank
 - Northbrook Street (West) – Taxi Rank
 - Railway Station (North) – Taxi Rank
 - Railway Station (South) – Railtrack land
- In the District zone the surveys were carried out at the following locations:
- Thatcham Broadway – Taxi Rank
 - Utopia Night-club
- 3.2 Utopia Night-club at Calcot does not have a legally designated rank as such. However, it was felt important to include it in this survey, as it is an area where there is significant demand for taxi services at certain times.
- 3.3 Surveys were carried out at different times and in time blocks of varying lengths. The surveyors were asked to record information about vehicle and passenger movements including the numbers of vehicles and passengers. These figures were then analysed by the consultants to form a picture of demand and supply at the various ranks.
4. Consultations
- 4.1 MCL consulted with many local groups and individuals to determine attitudes to and experiences of using taxi services in the area. Organisations and individuals consulted including the Police, local disability groups, both hackney carriage associations, private hire operators, night-club management, the Town Centre Manager and Council's own Transportation Planning Officer.

4.2 Surveys of users and potential users of taxi surveys were also conducted by means of street level and postal questionnaire. This survey explored taxi usage, previous experiences and a summary of attitudes and expectations of taxi users to such things as waiting times.

5. Results

5.1 The report concludes that the frequency with which people hire taxis in West Berkshire is not unusually high. Rank hiring makes up an estimated 22% of all hirings. The bulk of the remainder is by booking. A total of 27% of respondents in the questionnaires reported an occasion of being unable to hire a taxi when they wanted one.

A large majority of people viewed waiting at ranks as unacceptable. Only 23% considered a wait of over five minutes as reasonable and nearly 60% thought there should be normally no wait at all.

5.2 In summary the surveys conclusions were as follows:

- There was no significant unmet demand in the District area.
- There was significant unmet demand in the Town area.
- If you were to take the area as a whole i.e. ignore the zone boundaries there would be significant unmet demand.

5.3 The research suggested some desire for additional ranks to be developed. The most common suggestions related to Hungerford Town Centre, Railway Stations (Thatcham, Hungerford and Kintbury), Newbury Bus Station and Hospital, Dunstan Park, Greenham Business Park and some supermarkets. If ranks are to be provided there will be a cost, which must be recovered through an increase in licence fees.

5.4 During the survey only one passenger with a wheelchair was observed waiting at a rank for a taxi. This supported the feelings expressed that most demand from disabled people is in the private hire sector. Nevertheless, most of the vehicles supplying private hire services to the disabled are licensed as taxis. Therefore, demand for pre-booked services from wheelchair users can only be serviced by Hackney Carriages at present. The report states that 'it is clearly useful that vehicles exist to fulfil this purpose'. The conclusions of the report on this important issue are as follows:

- some people with a disability have a preference for saloon cars as opposed to London style taxis. However, some cannot use them
- there is no evidence of latent or frustrated demand from disabled people
- West Berkshire Liaison Group on Disability and West Berkshire Social Services identified a need for more wheelchair accessible vehicles to be designated as taxis thus allowing purpose built vehicles to be used.

The issue of demand from disabled people is worthy of mention at this point. While the consultants found no evidence of disabled people waiting at taxi ranks (one of the demand indicators), it has to be recognised that the very low number of suitable taxis would discourage any disabled person from waiting at a rank and they are far more likely to pre-book a suitable taxi or private hire vehicle. This situation clearly discriminates against disabled people and denies them the same opportunities as the rest of the population.

5.5 The report also explains that the Disability Discrimination Act 1995 allows the Secretary of State make regulations requiring all taxis to meet specified criteria for accessibility by a specified date. As yet neither the criteria nor the dates have been specified. A consultation document was issued suggesting all taxis newly licensed from January 2002 should be compliant with new standards and all taxis to be fully compliant by

2012. The final regulations and timetable have not yet been published but it is understood the Government is still committed to the end date.

6. The Legal Implications

- 6.1 MCL conclude that the results of survey 'could not be used to defend a policy of quantity control in the town zone, given the number of licences currently in circulation'. Therefore, on the basis of the MCL report, the Council must increase the number of taxi licences available in the town zone, as it cannot claim (under the Transport Act 1985) that there is no significant unmet demand.
- 6.2 The question then arises as to how many more licences would need to be issued in the Town. The calculations from the survey suggests that 37 additional taxis would be required to reduce passengers waiting time at ranks to nil. However, the report suggests that a more reasonable target would be to eliminate instances of waiting in excess of five minutes. To achieve this at all ranks, the report concludes that 14 additional Taxi Licences would need to be issued in the Town.
- 6.3 The Council, if it accepts the findings of the report, is legally obliged to issue 14 more Town licences as an absolute minimum. It may, of course, remove the limit all together.
- 6.4 In the District zone however, the survey could form the basis of a decision to introduce quantity control on the basis that there is 'no significant unmet demand'. If this was to be introduced, the appropriate level of licences issued would need to be set at that which existed at the time of this survey. However, the Council is not under any obligation to set a limit and may choose to let the market find it's own level. If it takes this second option, it needs to consider any justification for quantity control in either zone.

7. The Options

- 7.1 As stated in 6.1 above the Council is obliged to issue a minimum of 14 additional Town licences if the findings of the report are accepted. This is the starting point for the 'Town' zone. It may of course:
- remove the limit all together
 - impose conditions as it did in 1996, when it required the five additional licences to be issued to wheelchair accessible vehicles.
- 7.2 In the District zone, the Council may:
- set the limit at 129 (being the number of licences issued at the time the survey started). In this case we would need to allow a number of licences to be issued as the number of actual licences has now fallen below that figure.
 - leave the area unlimited, as is currently the case
 - impose conditions for all new licences being issued requiring them to be wheelchair accessible.
- 7.3 Finally there are two alternative solutions suggested in the report by MCL.
- Firstly, we could increase the number of vehicles, which are currently entitled to ply for hire in both zones (the so-called dual plated vehicles). However, dual plating is generally not recommended as it can cause difficulties if a need develops for different conditions, fees or fares to apply in each zone.
- Secondly, we could remove zoning altogether. However, the report expresses concerns that this latter course of action could mean an influx into the town zone leaving uncertainty as to unmet demand in what is now the 'district' zone. If this course of action were adopted then the area would need to be left 'unlimited' until demand across the whole area is determined. This could prove problematic if new ranks were planned.

7.4 If any decision is made to place limit on the number of licences issued in either zone, criteria will need to be developed as to whom the new licences should be issued. In 1996 a scoring system was developed for the five additional licences in the 'Town'. In the event an advertisement was placed in the local press for expressions of interest and criteria that vehicles should be accessible for wheel chair users and other disabled people was set. Despite this it still took some time for all five licences to be taken up as existing and potential vehicle operators considered the financial implications of using disabled access vehicles and the likely worth of the five new plates. This dilemma would not apply if the number of plates in the town were not limited and new operators could come forward in the knowledge that their investment would be in the provision of a suitable vehicle rather than the business goodwill element (or premium) which attaches to the licences when they are limited.

8. The Way Forward

8.1 After full consideration of the report and its findings it is suggested that the following course of action be adopted:

In the 'Town' zone:

- remove quantity control on the number of taxi licences issued
- ~~introduce a requirement~~ that all new licences that are issued have attached to them a condition that vehicles be suitable for wheelchair users and other people with disabilities
- allow existing licence holders to continue to use saloon cars as long as the legislation allows
- require all transferred licences to change to wheelchair accessible vehicles the next time the vehicle is changed

In the 'District' zone:

- preserve the status quo i.e. no limit on the number of taxi licences
- introduce a requirement that all new licences issued will have attached to them a condition that vehicles be suitable for wheelchair users and other people with disabilities
- allow existing licence holders to continue to use saloon cars as long as the legislation allows
- require all transferred licences to change to wheelchair accessible vehicles the next time the vehicle is changed
- carry out a review with a view to the introduction of new ranks

8.2 The reasons for this suggested way forward are as follows:

- there has been a significant increase in demand since 1996 in the Town and this may continue
- it is consistent with the Council's decision in 1996 on disabled access vehicles
- it is consistent with forthcoming requirements of the Disability Discrimination Act
- it is consistent with views of Social Services and West Berkshire Liaison Group on Disability
- it allows the Officers to work on increasing rank provision in line with suggested demand and without the need for constant demand studies
- it removes the requirement to carry out further demand studies

Provision of Ranks:

The report makes reference to the need for additional ranks, particularly in the District Zone. While only a minority of taxi fares arise from ranks, there is clearly a need for this to be reviewed both with the trade, local

communities and other interested organisations, and for their provision to be considered within the context of the Council's Local Transport Plan. Two important issues merit mention at this time however. Some of the locations mentioned are not on the highway and would require the land owner to agree to ranks being provided, the second point is that the Council should recover the cost of existing and proposed ranks via the taxi licencing fees, something which is not done at present.

9. Corporate Plan Implications

Access to transport services for people with disabilities is consistent with Council policy of improving the quality of life for all who live, visit and do business in West Berkshire.

10. Financial / Environmental and IT Implications

If additional licences are issued fee income will increase but it is not possible to specify by how much until applications are processed. However, the income has to be used only for the provision of specified taxi licencing activities by the Council so the net effect will be neutral. Environmentally, Taxi and Private Hire Operators can provide a significant contribution to the development of an integrated transport system and it is anticipated that the increases in the number of vehicles together with standardised livery arrangements will allow the Council and Taxi Trade to promote the use of taxis as an effective form of public transport throughout the district.

11. Personnel Implications / Trade Union Comments

None.

Recommendation

That the Committee:

- (1) Adopts the proposals set out in Part 8 of the report and instructs officers to consult with interested parties including parish councils and trade associations.
- (2) Instructs that the findings of the consultation be reported to the Committee in July for the matter to be determined finally.

Appendices

None.

Background Papers

None

Contact Officer: John Parfitt, Head of Public Protection (Tel: 01635 519178), Sean Murphy, Trading Standards and Licensing Manager (Tel: 01635 519840)

Officers Consulted on this Report: None

PUBLIC PROTECTION COMMITTEE

MINUTES OF THE MEETING HELD ON 6TH JUNE 2000

Councillors Present: Jeff Brooks (Chairman), Peter Argyle, Trevor Banning, Phil Barnett, Jeff Beck, Roger Brown, Tony Ferguson, Owen Jeffery, Graham Jones, Bob Judge, David Liddiard, James Mole.

Also Present: Mrs Alma Beck, Adrian Edwards, Tony Linden.

PART I

3. MINUTES.

The Minutes of the meetings held on 14th March and 16th May 2000 were approved as correct records and signed by the Chairman.

4. PRESENTATIONS.

The Committee received presentations from Mr Bill Jennison, Head of Countryside and Environment, Mr John Parfitt, Head of Public Protection Services and Mr David Corry, Head of Legal and Democratic Services, concerning the roles and responsibilities of their service areas, which report to this Committee, as follows:-

- (i) Refuse Collection and Waste Disposal
- (ii) Environmental Health
- (iii) Trading Standards
- (iv) Community Safety
- (v) Inspection Unit for Residential Care
- (vi) Registration of Births, Deaths and Marriages
- (vii) Coroners Service

5. TAXI LICENSING.

The Committee considered a report (Agenda Item 3) concerning the findings of the transport consultants appointed to examine demand for taxi services across the district.

At its meeting on 13th January 2000, the Committee had approved the commissioning of an 'unmet demand' survey in both the town and the district zones. The surveys were subsequently commissioned from MCL Transport Consultants and Members received a presentation from the consultants of their findings.

The consultants reported that the frequency at which people hired taxis in West Berkshire was not unusually

high and that rank hirings made up an estimated 22% of all hirings. A total of 60% of respondents viewed waiting at ranks as unacceptable. MCL concluded that the results of the survey could not be used to defend a policy of quantity control in the town zone, given the number of licences currently in circulation and therefore the Council must increase the number of taxi licences available in the town zone.

The Committee resolved to suspend Standing Orders to enable Mr Charles Paddock, representing the Town Trade Association, and Mrs Fields, representing the District Trade Association, to address the Committee on the issues raised in the report.

RESOLVED that the Committee:

(1) adopt, in principle, the following proposals and instruct officers to consult with interested parties, including parish councils and trade associations:

(a) In the 'Town' zone:

(i) remove quantity control on the number of taxi licences issued;

(ii) introduce a requirement that all new licences issued have a condition attached that vehicles be suitable for wheelchair users and other people with disabilities;

(iii) all existing licence holders to continue to use saloon cars as long as the legislation allows;

(iv) require all transferred licences to change to wheelchair-accessible vehicles the next time the vehicle is changed.

(b) In the 'District' zone:

(i) preserve the status quo, i.e. no limit on the number of taxi licences;

(ii) introduce a requirement that all new licences issued have a condition attached that vehicles be suitable for wheelchair users and other people with disabilities;

(iii) allow existing licence holders to continue to use saloon cars as long as the legislation allows;

(iv) require all transferred licences to change to wheelchair-accessible vehicles the next time the vehicle is changed;

(v) carry out a review with a view to the introduction of new ranks.

(2) Instruct that the findings of the consultation be reported to the Committee at its meeting on 3rd July 2000 for final determination.

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Appendix B

ITEM FOR DECISION

3/7/00

ITEM 2

ITEM 2

Taxi Licensing

PURPOSE:

- 1) To receive a report on the outcomes of consultation with trade associations and parish/town councils on proposed changes to taxi licensing arrangements, adopted in principle by the Committee on 6 June 2000.
- 2) To decide whether to implement the resolutions of the 6 June 2000 with or without amendments.

1. Background

- 1.1 At present the Council, as Licensing Authority, has determined that there should be two zones for taxi licensing purposes. The "Town Zone" which is based upon the former Newbury Borough boundary, and the District Zone which comprises the remainder of West Berkshire Council's administrative area. The effect of the zones is that taxis licenced to operate from a particular zone can convey passengers from it to a place outside the other zone, but not pick up a passenger for the return journey. Presently the number of vehicles licenced to operate from and within the town zone is capped at 65, and for the district zone the number is presently capped at 129.
- 1.2 Members will recall that at their meeting on 6 June 2000 they received a presentation from MCL Transport Consultants who had carried out a study within the area to determine the level of demand for taxis within the Town and District zones. They concluded that there was significant unmet demand in the town zone, and that the district zone appeared to be "in balance" based upon the number of ranks provided at this time. They also concluded that if the zones were removed the total of 198 vehicles would probably meet the total unmet demand but that this would need further monitoring if the numbers were restricted and /or more ranks were provided. The Committee also considered a report from the Head of Public Protection Services which set out options based upon the consultant's findings. Having heard representations from both trade associations it resolved to adopt in principle the recommendation to remove the limit on the number of taxi licences issued in the both zones, and for all new licences to be made available only to vehicles suitably adapted for use by disabled persons.
- 1.3 Since the 6 June, officers have consulted with all Parish and Town councils and a total of six meetings have been held with representatives of the taxi trade association and with private operators.
2. Town and Parish Council Responses
 - 2.1 Copies of the Committee report (6/6/2000) were sent to all parish and town councils and replies were received from eight. Four were in favour of providing more taxis immediately, two felt that an increase was needed but additional ranks should be provided, one felt that we should dezone to allow better use of the existing taxis, and one felt that the only alteration should be to increase town licences by fourteen.
3. Trade representations
 - 3.1 Representatives from the Town, and the District Associations addressed the Committee at its previous meeting, and have met with officers twice, and the Chairman and Vice Chairman of the Committee once.

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3.2 The Town Association position was, and still is:

- Acceptance of the need for fourteen more licenses to be issued for taxis to operate from within the Town zone.
- Acceptance of the requirement that all new licenses should be issued only to vehicles which have been suitably adapted for use by disable persons (SAV's).
- Rejection of the proposal that the limit on the number of "town licenses" be removed.
- Suggestion that persons who have transferred a "town licenced" vehicle to another owner since 1996 should not be eligible to apply for any new licence issued under any future capped regime.

3.3 The District Association position was, and still is:

- Support for the proposal to remove the limit on both zones, but, a firm belief that the appropriate way forward is both zones to be removed and for all vehicles to be licenced to operate from within the Council's administrative area.
- Support for the requirement that all new licenses issued be for SAV's

4. The Way Forward

Option One: Maintain the status quo.

- 4.1 In reality this is not an option because the Council is under a legal obligation to address the significant unmet demand which has been identified as a result of the surveys carried out in both zones. This option is not supported by either trade association.

Option Two: Agree to additional town licences but keep the limit on the town zone, keep the limit on the district zone and review it after new ranks have been provided.

- 4.2 The consultants recommended a minimum of fourteen extra town licences and felt that a total of thirty seven would be needed to address all the unmet demand at present. This option is closest to the one most favoured by the Town Association who wanted fourteen licences and a continuation of the requirement for all new licences to be for wheelchair accessible vehicles. The current level of licences in the district is sufficient to meet the demand at Thatcham rank but it may need to be increased if new ranks are provided. Prior to September 1999 there was no limit on district licences and the current limit was only imposed as a moratorium pending the outcome of the demand study. This option would require a further demand study once the effect of additional town licences and more district ranks had taken effect.

Option Three: Confirm the previous decision in principle

- 4.3 Clearly the positions taken up by the two trade associations so far as removing the limit on town licences is concerned, are mutually exclusive. The decision in principle taken by the Committee does come close to the objectives of the District Association and continues with the decision taken by the former Newbury DC that the additional town licences which it issued at that time should be reserved for wheelchair accessible vehicles. It is open to the Committee to confirm its decision in principle and remove the limits in both zones but require all new licence holders to provide wheelchair accessible vehicles.

Option Four: Confirm the previous decision in principle subject to changes to the requirement regarding wheelchair accessible vehicles

4.4 Members will recall having heard representations at the previous meeting in which it was stated that many disabled people did not feel comfortable in the "London Taxi" type of vehicle and that they favoured the use of conventional saloon or estate cars which had been modified to improve accessibility. The Committee may wish to consider modifying its decision in principle by deleting references to "wheelchair accessible" vehicles and substituting a requirement that the vehicles be "suitably adapted or designed for ease of use by disabled passengers" (SAVs) and adopting suitable changes to the licencing conditions along the lines set out in Appendix One of this report.

Option Five: Phase out the limits in both zones over a three and a half year period by allowing dual plating, a period of derogation for existing licence holders and transferees to switch to vehicles "suitably adapted or designed for ease of use by disabled passengers" (SAVs), and impose a requirement for persons who were not WBC taxi licence holders as at 6 June 2000 to provide an SAV within a specified period

4.5 In the many hours of discussions with trade representatives, officers have tried to respond to their often conflicting concerns and aspirations by exploring other options which will address the need to increase the number of vehicles available to the public throughout the district whilst recognising that to move from limited to unlimited number of licenses in the town zone could cause some difficulties for the trade, if it was done "overnight". Officers were also mindful of the need to strike a balance between creating a supply of taxis to meet unmet demand in the town while encouraging the provision of "SAVs". This option is clearly a compromise and as such it will not satisfy all of anyone's objectives but the approach which is set out below takes account of:

- The need to give town licensees time to adjust their business planning from a limited to unlimited regime.
- The need to increase the number of taxis which can stand at town ranks and ply for hire
- The need to reduce if not remove completely, (at present) the anomalous situation whereby a town licenced vehicle cannot pick up fares in the district and vice versa. This leads to vehicles returning from journeys without fares, which is both economically and environmentally unwise. It also causes confusion and sometimes anger amongst the public who cannot understand why a district taxi which, for example, has just conveyed passengers from Thatcham to Newbury, cannot pick up passengers in Newbury and take them to Thatcham.

5. Quantities of Taxis

5.1 At present there are 129 District Taxis and 65 Town Taxis.

5.2 With effect from 1 October 2000, the Council would make available another 39 additional district licences but reserve them in the first place for existing town licensees. At the same time 39 additional town licences would be made available but reserve them in the first instance for existing 'district' licence holders.

5.3 If all new allocations were taken up by the existing town or district licensees as appropriate a total of 78 taxis (plus the small number of existing dual plated vehicles) would be able to ply for hire in the town and district zones with 26 remaining to operate solely within the town, and 90 remaining to operate solely within the district.

5.4 If there are still licences remaining from this first process after 31 March 2001 they would be available to any suitable applicant in addition to any "new" licences issued thereafter in accordance with the provisions set out later in this report and be subject to the SAV requirements.

5.5 On the 1st April each year thereafter each category – town, district and dual licenced – would be increased by 10% and on 1 April 2004, the limit for both zones would be removed but both zones would remain.

Type	06.06.00	01.10.00	01.04.01	01.04.02	01.04.03	01.04.04
Town	65	28	31	35	38	Unlimited
Dual		74	81	89	98	Unlimited
District	129	92	101	111	122	Unlimited
TOTAL	194	194	213	235	258	Unlimited

5.6 The rationale behind these proposals is:

- (a) The total number of vehicles is not increased immediately, which prevents an influx of people trying to exploit the apparent "deregulation".
- (b) The number of taxis available to meet demand within the town would increase significantly without any reduction in the numbers available to respond to requests from residents in the district zone.
- (c) Dual licenced vehicles could be used for journeys throughout the district and for journeys between the zones in both directions, while single licenced vehicles could still service the needs of residents requiring journeys within zones or to drop off points close to the zones.
- (d) The phased release of completely new plates to persons not previously licenced, would prevent a rapid influx of "predatory" applications with the resulting "cab wars" scenarios which have been described by the trade.
- (e) The phasing programme will also be used to require the acquisition of SAV's by existing licences who choose to go "dual licenced" but who at present do not have such a vehicle.

Note: It may not be possible to accede to the request from the Town Association that persons who have "traded" town plates since 1996 be debarred from obtaining new plates while any form of capping is in place, but this would be considered when the new allocations policy is formulated

6. Increasing the Number of Vehicles Suitable for Use By Disabled Passengers (Savs)

6.1 The definition of a "suitably adapted vehicle" is problematic. The Government departments responsible for bringing in regulations to support the Disability Discrimination Act have, so far, failed to produce a definition or guidance. The start date from which taxis may have to be converted to 'SAV' standards has been delayed because of this, and the trade is as anxious as others to know what it will have to do and by when. However, in discussions with the trade, officers have proposed a way forward on this issue.

6.2 The Council as licensing authority would specify what types of vehicle with or without modifications met its local criteria for classification as 'SAV'. As a guide, the definition set out in Appendix 2a to this report would be included in the standard licensing conditions.

6.3 Therefore the proposals in respect of SAVs are:

- (1) Anyone holding a town or district licences for vehicles on or before 6 June 2000 would be allowed to apply to become "dual licenced" without the requirements to provide an SAV immediately. However, they would be required to change to an SAV by April 2004 (or sooner if required by changes to national legislation).
- (2) All persons who were not holders of town or district licences on or before 6 June 2000, who apply for a new licence from those released on 1 April in 2001 and 2002 would be required to provide an SAV from 1 April 2003 (or sooner if required by changes to national legislation).
- (3) Anyone, whether an existing licence holder or not, who applies to have an existing licence transferred to their name would be required to provide an SAV from 1 April 2003 (or sooner if required by changes to national legislation).
- (4) Any "transferred" non SAV which was stolen or written off, could be replaced with a non-SAV for the residue of the exempted period, but thereafter must be replaced with an SAV.
- (5) In the even of an SAV being taken out of use for repairs, the licence holder may seek approval of the Council for it to be replaced with a non SAV for a specified period to allow repairs to be carried out. If an SAV is "written off", the licence holder will be allowed up to thirteen weeks to obtain a replacement SAV.
- (6) Applicants for licences to which SAV conditions are applied will need to accept that the Council may change the requirements and/or standards at any time or may find that changes to national legislation may increase or decrease the requirement for SAVs.

6.4 The rationale behind the SAV proposals is:

- (1) A requirement for all vehicles which receive new licenses to meet SAV standards may result in a slower take up of new licences and thus delay the response to unmet demand. It would also force existing town or district licence holders to change their vehicles "en masse" and, as the supply of SAV's is not great, demand may exceed local supply which would drive up the market price of those which are available.
- (2) Existing licence holders will have to cope with changes to the business environment if these proposals are adopted by the Council. Allowing them time to introduce SAV's, and permitting them to transfer existing vehicles to new "transferee" licence holders will ensure that they have flexibility to plan their businesses. The derogation for new "transferee" licence holders will also allow new entrants to the trade to move gradually up to the SAV standard to which we aspire.

7. Managing the Details of the Transition

7.1 Whatever option the Committee chooses (save for option one) will require work to secure its implementation. The negotiations so far have been complex and it is possible that points of detail (rather than principle) will emerge as the process is implemented. As points of contention need to be resolved quickly it is suggested that these matters relating to licensing conditions and implementation be delegated to the Head of Public Protection Service who may refer any matter to a member panel comprising the Chairman and Vice Chairman of Committee and the Opposition Spokesman (or their nominated substitutes).

8. Other Matters

- 8.1 During the discussions with trade representatives both sides raised other matters relating to taxi licensing, but it was felt that it would have been unhelpful for these to be included in this report. However, they will be the subject of further consultation with the trade and will be reported to a future meeting of the committee. These matters include:

Penalty points system for licensing transgressions
Age of vehicles and periodic testing
Licence fee structures
Driver dress code
Livery standards
Rank provision
Promoting the use of taxis and private hire vehicles

9. Corporate Plan Implications

- 9.1 Improved access to public transport for everyone is consistent with the Council's policy of improving the quality of life for all who live, visit or do business in West Berkshire.

10. Financial/Environmental and IT Implications

- 10.1 If additional licences are issued fee income will increase but it is not possible to specify by how much until applications are processed. However, the income has to be used only for the provision of specified taxi licensing activities by the Council so the net effect will be neutral. Environmentally, Taxi and Private Hire Operators can provide a significant contribution to the development of an integrated transport system and it is anticipated that the increases in the number of vehicles together with standardised livery arrangements will allow the Council and Taxi Trade to promote the use of taxis as an effective form of public transport throughout the district.

11. Personnel Implications/Trade Union Comments

- 11.1 None arising directly out of this report, but if the number of licenced vehicles increase significantly, there will be a need for additional administrative and enforcement resources. However, the cost of such resources (whether directly employed or out sourced) will be covered by licence fee income.

Recommendation

1. That the Committee re-affirms its commitment to the removal of limits to the number of licences issued in the town and district zones, and ,
2. Selects its preferred option from those set out in the report, as the appropriate means to achieve its ultimate objective.

Appendices

Appendix 2a - Draft conditions relating to SAVs

Background Papers

None

Contact Officer(s): John Parfitt Head of Public Protection Services (Tel: 01635 519 178)

DRAFT

APPENDIX 2a

Definition of a Suitably Adapted Vehicle (SAV)

Suitably adapted vehicles for use by disabled persons will include:

- (a) Any Metrocabs, Eurocab, FX1. (or any other like vehicle)
- (b) Any vehicle which has been adapted or modified to provide improved access for disabled persons, together with storage and carrying capacity for any equipment that they may have (e.g.) Wheel chair) and which does not preclude the carriage of normal quantities of luggage and personal belongings.
- (c) (c) In the event of dispute between the applicant and the Council as to whether or not a vehicle meets the SAV requirements, the West Berkshire Liaison Group on Disabled Access shall be invited to arbitrate. Any vehicle subsequently approved under this procedure shall be included in a "Type Approved" list.

NOTE: While this mechanism cannot be guaranteed to meet DETR and DTI requirements, it is thought to be unlikely that either department would argue against it as an appropriate way forward.

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Appendix C

PUBLIC PROTECTION COMMITTEE

MINUTES OF THE MEETING HELD ON 3RD JULY 2000

Councillors Present: J.C.G. Brooks (*Chairman*), Peter Argyle, Trevor Banning, Phil Barnett, Jeff Beck, Roger Brown, Tony Ferguson, Owen Jeffery (*Vice-Chairman*), Graham Jones, David Liddiard, James Mole, Steve Pascall,

Apologies for Absence: Bob Judge, Keith Woodhams

PART I

Declarations of Interest:

(i) Councillors Peter Argyle, Trevor Banning, Jeff Beck, Roger Brown, Tony Ferguson, Graham Jones and David Liddiard declared an interest in Minutes 19 and 21.

(ii) Councillor Graham Jones declared an interest in Minute 18(a)

16. MINUTES.

The Minutes of the meeting held on 6th June 2000 were approved as a correct record and signed by the Chairman.

17. TAXI LICENSING.

The Committee considered a report (Agenda Item 2) concerning the outcome of consultation with the trade associations and parish/town councils on proposed changes to taxi licensing arrangements, adopted in principle by the Committee on 6th June 2000.

Members were presented with a number of options for the way forward. In addition, in accordance with Standing Order 18.3. the Committee invited representatives of both the Town and District Hackney Carriage Owners Associations to make oral representations. Mr C Paddick from the Town Trade Association declined to do so. Mrs J Beales from the District Trade Association confirmed that it supported the phased approach outlined in Option Five of the report.

Members were provided with copies of correspondence received from Solicitors representing the Town Trade Association, and with copies of a letter from MCL Transport Consultants which responded to the Solicitor's letter and the proposals under consideration.

RESOLVED that the Committee:

(1) re-affirm its commitment to the removal of limits to the number of licences issued in the town and distinct zones;

(2) approve Option Five as the way forward - to phase out the limits in both zones over a three and a half year period by allowing dual plating, a period of derogation for existing licence holders and transferees to switch to vehicles "suitably adapted or designed for ease of use by disabled passengers" (SAVs), and impose a requirement for persons who were not West Berkshire Council taxi licence holders as at 6th June 2000 to provide an SAV within a specified period.

18. ITEMS FOR INFORMATION.

The following reports (Agenda Items 4 - 7) were considered for information.

(a) Licensing Reform - (Note: Councillor Graham Jones declared an interest in this item as a licensee and left the meeting during consideration thereof)

(b) Food Enforcement

(c) Contaminated Land - The New Regime

(d) Publication of the New U.K. Waste Strategy 2000

19. TELECOM TRANSMITTERS.

The Committee considered a report (Agenda Item 3) concerning the report of the Independent Expert Group on Mobile Phones (I.E.G.M.P) - the Stewart Enquiry.

Members noted that the report included issues outside the interest or remit of the Council and therefore received an extract and commentary in respect of the most relevant points so far as they related to the Council or its concerns.

The balance of evidence indicated that non-ionising (RF) radiation from transmitters did not adversely affect the general population but may cause biological changes to occur even at levels below current safety guidelines.

RESOLVED that the Committee:

(1) note the Stewart Enquiry's findings and recommendations but regrets that it has raised more questions than it has answered through its failure to provide meaningful guidance in respect of the siting of telecom transmitters;

(2) call upon the Government to expedite and set a time frame for the research necessary to ascertain whether the biological changes identified so far constitute any hazard to public health;

(3) call upon the Government to empower the NRPB to identify all sensitive sites within West Berkshire and to audit the emissions and publish its findings without delay;

(4) continue to monitor the scientific evidence made available, and provide appropriate guidance

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Appendix D

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
CROWN OFFICE ROW

CO/ 3551 | 2000

THE QUEEN

-v-

WEST BERKSHIRE DISTRICT COUNCIL
ex parte RODNEY JAMES NEMETH

NOTICE OF APPLICATION FOR PERMISSION
TO APPLY FOR JUDICIAL REVIEW AND AN INTERIM INJUNCTION

The Applicant

RODNEY JAMES NEMETH

Judgment , order , decision ,
or other proceeding in
respect of which relief is
sought , and the date
thereof

The decision / resolution of the
Respondent on 3rd July 2000 to :

(a) re-affirm its commitment to the
removal of limits to the number of
licences issued in the town and
district zones ;

(b) approve Option Five as the way
forward – to phase out limits in both
zones over a three and a half year

period by allowing dual plating, a period of derogation for existing licence holders and transferees to switch to vehicles " suitably adapted or designed for ease of use by disabled passengers " (SAVs), and impose a requirement for persons who were not West Berkshire Council taxi licence holders as at 6th June 2000 to provide an SAV within a specified period

Relief sought

- (1) Certiorari to quash the decision
- (2) An interim injunction restraining the Respondent from issuing any hackney carriage licences pursuant to its resolution dated 3rd July 2000

.....

Kearns & Co

Dated

September 2000

Sun Alliance House

166 / 167 St Helen's Road

Swansea

SA1 4DQ

DX 39552 Swansea

Ref : KJ

Tel : 01792 463111

Fax : 01792 463888

Grounds upon which relief is sought

1. The issue in this case is whether the Respondent acted lawfully and reasonably in dealing with unmet demand for hackney carriages in the town zone of Newbury by resolving to :
 - (a) re-affirm its commitment to the removal of limits to the number of licences issued in the town and district zones ;
 - (b) approve Option Five as the way forward – to phase out limits in both zones over a three and a half year period by allowing dual plating, a period of derogation for existing licence holders and transferees to switch to vehicles " suitably adapted or designed for ease of use by disabled passengers " (SAVs), and impose a requirement for persons who were not West Berkshire Council taxi licence holders as at 6th June 2000 to provide an SAV within a specified period

2. As to the Applicant :
 - (1) He has a sufficient interest , being a hackney carriage driver licensed to ply for hire in the Newbury town zone. Further, the Applicant was granted his licence in 1996 to deal with previously identified unmet demand, but prior to being granted a licence he had to provide a wheelchair accessible vehicle.
 - (2) He has no alternative remedy .

3. The Respondent has powers to licence hackney carriage vehicles pursuant to the Town Police Clauses Act 1847 (hereinafter referred to as " the 1847 Act).

4. The Respondent has 2 zones in which hackney carriages can ply for hire in the Newbury area. One zone covers the town of Newbury (" the town zone ") and the other covers the more rural areas (" the district zone ").

5. The respondent has a discretion as to whether or not to issue a hackney carriage licence to an applicant pursuant to its powers under the 1847 Act. The exercise of this discretion is affected by Section 16 of the Transport Act 1985 which provides that a licence can only be refused for the purposes of limiting the number of licences issued if there is no significant unmet demand for hackney carriages in the area.
6. In order to assess the extent of unmet demand the Respondent has commissioned surveys from Transport Consultants. In 1996 a survey identified significant unmet demand in the town zone which could be dealt with by the issue of 5 new licences. The Respondent resolved that 5 new licences should be issued, but only in respect of wheelchair accessible vehicles. The Applicant was issued with one of these licences in 1996.
7. In the circumstances, in order to obtain a licence in 1996 the Applicant had to make a substantial financial investment by purchasing a wheelchair accessible vehicle.
8. In early 2000 the Respondent commissioned a further survey to assess unmet demand. The survey, which is dated May 2000 identified unmet demand in the town zone which could be dealt with by the issue of 14 additional licences.
9. On 6th June 2000 the Respondent's Public Protection Committee considered the survey and the options available to them. Members were informed that consultation had taken place with the taxi trade, disabled groups, the police and others. The Committee resolved as follows to :
 - (1) adopt, in principle, the following proposals and instruct officers to consult with interested parties, including parish councils and trade associations :

- (a) In the town zone

- (i) remove quantity control on the number of taxi licences issued
- (ii) introduce a requirement that all new licences issued have a condition that vehicles be suitable for wheelchair users and other people with disabilities
- (iii) all existing licence holders to continue to use saloon cars as long as the legislation allows
- (iv) require all transferred licences to change to wheelchair-accessible vehicles the next time the vehicle is changed

10. The resolution " in principle " was consistent with the 1996 resolution in the context of disabled access vehicles and the forthcoming requirements of the Disability Discrimination Act 1995.

11. Further consultation took place and the matter was considered again by the Public Protection Committee on 3rd July 2000. The Report to Committee put forward 5 options for consideration, Option 3 being to confirm the previous decision in principle. The Committee resolved as follows to :

- (a) re-affirm its commitment to the removal of limits to the number of licences issued in the town and district zones ;
- (b) approve Option Five as the way forward – to phase out limits in both zones over a three and a half year period by allowing dual plating, a period of derogation for existing licence holders and transferees to switch to vehicles " suitably adapted or designed for ease of use by disabled passengers " (SAVs), and impose a requirement for persons who were not West Berkshire Council taxi licence holders as at 6th June 2000 to provide an SAV within a specified period

12. The decision / resolution of the Respondent dated 3rd July 2000 warrants the intervention of the Court in the exercise of its supervisory jurisdiction.

- (a) The decision / resolution was irrational in that it departed from the Respondent's requirement in 1996 that further licences should only be

issued to applicants who provided wheelchair accessible vehicles, with no cogent reason for so doing.

(b) The decision / resolution of the Respondent in 1996 that the 5 further licences to be issued at that time would only be issued to applicants who provided wheelchair accessible vehicles gave rise to a substantive legitimate expectation on the part of the Applicant that, in the absence of any other over-riding consideration any further licences issued in the future to deal with unmet demand would be issued subject to the same condition. The decision / resolution dated 3rd July 2000 thwarted the Applicant's substantive legitimate expectation.

(c) The decision / resolution dated 3rd July 2000 was irrational in that it was not consistent with the forthcoming requirements of the Disability Discrimination Act 1995, on which the Respondent had in part based its 1996 decision / resolution.

(d) In resolving as it did on 3rd July 2000 the Respondent took into account irrelevant considerations and / or failed to take into account relevant considerations as follows :

(i) the resolution / decision in 1996 to only issue the 5 new licences to applicants who could provide wheelchair accessible vehicles

(ii) the legitimate expectation on the part of the Applicant that, in the absence of any other over-riding considerations, the same condition would be imposed on the grant of future licences

(iii) the provisions of the forthcoming Disability Discrimination Act 1995

(iv) the significant financial investment that the Applicant had made to provide a wheelchair accessible vehicle in 1996 to obtain his licence

(v) the issue of dual licences to existing licence holders will not necessarily increase vehicles available for hire, but if it does it will have the effect of increasing the supply of hackney carriages in the town zone to the detriment of the district zone.

(vi) the resolution makes no immediate provision for further wheelchair accessible vehicles to be available for hire

(vii) the existence of unmet demand identified in the survey relies upon an arbitrary waiting time of 5 minutes

(vii) the Respondent has provided a specification for wheelchair accessible vehicles despite the fact that no government specification has been provided.

(e) The decision / resolution of the Respondent dated 3rd July 2000 was unreasonable in the Wednesbury sense.

13. In the event that the Applicant is granted permission to seek a Judicial Review, he seeks an interim injunction as set out above to prevent the Respondent from issuing licences pursuant to its decision / resolution dated 3rd July 2000.

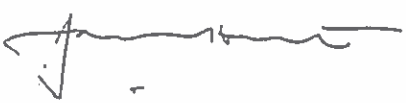
12. This application is brought within 3 months of the decision / resolution. The Applicant, through his solicitors, has raised matters of complaint in respect of the resolution dated 3rd July 2000 with the Respondent in detailed and lengthy correspondence. Instructions have been taken in respect of the Respondent's answers, and in the circumstances the application has been brought promptly.

PETER MADDOX

.....
Kearns & Co

Dated September 2000

IN THE HIGH COURT
 APPLICATION FOR LEAVE TO APPEAL
 TO THE COURT OF APPEAL (CIVIL DIVISION)

Title of case/action <p style="text-align: center;">NEMETH</p>	Action/case no. <p style="text-align: center;">CO/3551/00</p> File no.
Heard/tried before (insert name of Judge) <p style="text-align: center;">HUNT J.</p>	Court no. <p style="text-align: center;">10.</p>
Nature of hearing: <p style="text-align: center;">JUDICIAL REVIEW</p>	
Date of hearing/judgement <p style="text-align: center;">8 DECEMBER 2000</p>	
Results of hearing (attach copy of order): <p style="text-align: center;">Dismissed</p>	
Applicant's/Appellant's/Respondent's * application for leave to appeal	Allowed/refused* <p style="text-align: center;">Allowed</p>
Reasons for decision (to be completed by the Judge): <p style="text-align: center;">No basis for appeal was advanced. I could see no prospect of success.</p>	
Judge's signature: 	Note to the Applicant: When completed this form should be lodged in the Civil Appeals Office on a renewed application for leave to appeal or when setting down an appeal

* Delete as appropriate

AND UPON READING the witness statement of John Ewart Parfitt signed the 10th day of November 2000 together with the exhibits referred to therein filed on behalf of the Defendant

AND UPON HEARING Counsel for the parties Mr Maddox (Mr C Lim for judgment) on behalf of the Claimant and Mr P Harrison (Mr R Banwell for judgment) on behalf of the Defendant

IT IS ORDERED that this application / claim be dismissed

IT IS FURTHER ORDERED that the costs of this application summarily assessed in the sum of £7,540.00 be paid by the Applicant to the Respondent's solicitors

[This matter occupied the time of the Court from 10:30 to 13.00 and 14.00 to 15.50 on the 6/12/00 and from 10.00 to 10.15 on the 8/12/00]

By the Court

DATE 8th December 2000

IN THE HIGH COURT OF
JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

MR JUSTICE HUNT

O R D E R

CO/3551/2000

Claimant's Solicitors

Kearn And Co
DX 39552 Swansea
Ref: PMX/Kearns

Respondent's Solicitors

West Berkshire District Council
Legal And Democratic Services
DX 30825 Newbury

Ref: ALG/JM L300066

Appendix E

Additional Hackney Carriage Proprietor (Vehicle) Licences

Consultation on the proposed allocation procedure and clarification of conditions applying to the new plates.

December 2000

Following the recent Judicial Review, we are now in a position to release the additional plates, originally scheduled for October 2000. (Subject to any appeal the Applicant may make)

37 new Town Licences will be available to all who held District proprietor (vehicle) licences prior to 6th June 2000, and 37 new District Licences will be available to all those who held Town proprietor (vehicle) licences prior to the 6th June 2000. This will enable them to become 'Dual-Plated'.

Expression of Interest forms will be sent to all those proprietors when finalised.

A draft copy is enclosed and we would be grateful for your comments as soon as possible. The proposed scoring scheme would be used if we had more applicants than plates available.

There will be several 'conditions' regarding the issue of these additional plates, including the implications for providing 'Suitably Adapted Vehicles' for access to the disabled and elderly. These, along with the definition of SAVs are detailed below, but please note these are in draft form at the moment.

Definition of Suitably Adapted Vehicle (SAV)

Either:

- a) a saloon car fitted with at least
 - a seat that swivels on its own axis
 - or
 - a swivel seat that also slides out

- b) a vehicle with full wheelchair access,
 - including fixing points, straps & anchors and ramps

Note 1 In the event of a dispute between the applicant and the council as to whether or not a vehicle meets the SAV requirements, the West Berkshire Liaison Group on Disabled Access shall be invited to arbitrate. The fee for this will be approximately £40, to be paid by the applicant.

Note 2 While this mechanism cannot be guaranteed to meet DETR and DTI requirements, it is thought unlikely that either department would argue against it as a appropriate way forward.

Conditions regarding the issue of additional Proprietor (vehicle) Licences

1. If you held a town or district proprietor's licence before 6 June 2000
 - but do not apply for, or receive a dual licence in April '01, you will not have to provide an SAV until such time as specified by central government
 - if you do receive a dual licence in April 2001 if you haven't already got an SAV, you must provide one by April 2004 (or sooner if central government require it)
2. If you were licensed between 6 June 2000 and April 2001 OR have no licence at all
 - you can not apply to dual licence in April 2001
 - you can apply in October 2001 and for subsequent releases and if you are successful, you must provide SAV by April 2003 (or sooner if central government require it)
3. If you receive an additional licence and become dual-plated, you can not 'split' the plates to become single plated again, by transferring the other to a third party. If you want to revert to being single-plated, the second plate must come back to the council for re-issue.
4. Anyone, whether an existing licence holder or not, who applies to have an existing licence transferred to their name, would be required to provide an SAV from 1 April 2003 (or sooner if Govt requirement)

Any 'transferred' non SAV which is stolen or written off, could be replaced with a non-SAV for the residue of the exempted period, but thereafter must be replaced with an SAV

4. Any SAV which is stolen or written off, could be replaced with a non-SAV for up to thirteen weeks to obtain a replacement. An SAV being taken out of use for repairs, may be replaced with a non-SAV for a specified period, to allow these repairs to be carried out. Approval must be sought from the council.

6. Applicants for licences to which SAV conditions are applied will need to accept that the council may change the requirements and/or standards at any time so may find that changes to national legislation may increase or decrease the requirements for SAVs

Appendix F

ATTENDING NEWBURY MAGISTRATES COURT IN THE MATTER REGARDING SAV APPEALS

These are Appeals sought by Mr Jack Socker and four other holders of Hackney Carriage Licences granted by West Berkshire Council, against the imposition on these licences of conditions. The Appeals are brought by virtue of Section 47 Sub Section 3 of the Local Government (Miscellaneous Provisions) Act 1976. The conditions complained of are that the Appellants be required in the alternative to:

1. Install a front passenger seat which swivels or
2. To provide a vehicle which is capable of taking a person in a wheelchair.

The Appellants do not challenge the Council's power to impose conditions on such a licence but rather contend that the conditions are unnecessary and unfair. They further contend that there are alternative conditions which would meet the needs of disabled passengers.

Whilst the Disability Discrimination Act 1995 is in force it has not been totally implemented. Under Section 32 of that Act the Government has power to make regulations as to taxi accessibility. No such regulations have yet been made but there is a published timetable for implementation, which has woefully slipped behind schedule. West Berkshire Council non the less decided to act in advance of the proposed statutory regulations and attempted to ensure that the disabled population of West Berkshire and presumably visitors should have ensured to them proper access to taxi services.

It embarked upon a wide consultation process with all interested parties as the way forward and indeed commissioned an independent report by MCL Transport to report to its committee. The Appellants thought initially to complain of proper consultation by the Council, but as I understand from their Counsel, they no longer take that view. In any event I would have rejected that suggestion.

The test that I have to apply in deciding whether these Appeals should be allowed is whether the Council is in proper exercise of its discretion – has it acted reasonably and whether the conditions imposed are reasonable.

I have asked myself the following questions:-

1. Was there a lack of consultation? I have already answered that question and reject that there was any lack of consultation.
2. Is there a need? Of course there is a need for disabled to have proper access to taxi services.
3. Is safety compromised? The evidence produced by the Council on this issue satisfies me that the provision for installation of the two swivel seats currently available meet safety requirements similar to any unmodified vehicle.
4. What are the alternatives? I am not sure that this is a matter for me. I have to decide whether what it proposes is the right way to proceed. Of course I now, as part of the demonstration which took place yesterday, have seen an alternative suggestion made by the Appellants i.e. the swivel cushion as apparently in use in Scarborough. I must say that this was to me less than impressive.
5. Has the Council acted on sufficiently good information as to the efficacy of the solution proposed by the Council in its condition.

6. Quite apart from the safety factor, should I not also consider the question of passenger comfort, not just to the disabled passenger but to others more able. While not as important as the safety aspect comfort cannot be lightly disregarded.

Yesterday I had the opportunity of seeing in action 2 swivel seats which are currently available and I must say I found these demonstrations of the most enormous value. While I was satisfied that some of the participants in common parlance "hammed it up" considerably, it was clear to me that the operation of these seats leave a lot to be desired and did very little in achieving easy access to the vehicles and would be greatly detrimental to the comfort of passengers being carried in it. I recall a quite diminutive person being in the seat and he too was very restricted as to head room, not only in the vehicle itself but particularly on entry to an egress from the vehicle. I add I have not let any economic factor enter into my deliberations. I repeat what I said earlier – the Council's aims are laudable and is to be applauded for their wish to see that proper provision is made for the disabled taxi user in advance of statutory regulations and would very much like to find in favour of it but in view of the current lack of proper development of the swivel seat technology I cannot. The Appeals are allowed.

Commis:

Appellants bypassed

not show by exercise discretion

unreasonably / not necessary

Onus on appellants.

not challenged: lawfulness.

Lack of consultation: / information / need

alternatives.

Safety:

Tab 1. Legal Fin. S47:

Tab 2. Wirral capital case

change OK in EC terms

P 159.

P 169¹ para 39 scope

Tab 3. Manchester 1989.

Para 14- L. P 291.

No other relevant considerations - safety impact of passengers
- genesis in detail. Lawful & reasonable.

Taxi policy under public interest. Acts of divs captured & adopted
which or change them.

Lack of Consultation ? over sum 2000 Council chose policy with extensive consult

* Consultants report.

P 87. Cons. Part 4 1

P 93 Cte. minutes lead to resolution in principle.
even suspended staying over to allow representation

P-95 July 2000 - at Cte. 2 1.
3 1.

5 Option. Option 5

It some for. - provide here in favour.
Amor Amor - must not competition
Amor Amor - bonus.

New licenses At confirm: dual licenses

unique, to adapt which not attract a score

more people to cover covered by SAV.

123 Dec 2000 further consultation - definite proposal

125 Express At Input: Draft

130 J.R. result. 2.2 time table implications

131 3 1

162/3 Feb 2002 Rpt. another stage - process.

News letter sent out to all licensees 173 →

Concern many by e-mail. practical observations

clearly dem. oper. of service sent.

Along found at in Jvd. Renew.

sound foundation for conditions. - neither unfair, or unreasonable.

if Council acts in public interest - not to protect owners.
no be ultra vires

: Informantia ?

: MCL report:

manuspts: para 7.35 P 62

- no dist. bth n/chair or swirl seats.
- from n/c specific demands. Distb Dis Act where will require it is false.

P 71

§ 51

§ 52

distbign Cmcil havent bth @ need • seen as unmet demand
 how is unmet demand anyway. Can have n/c future policy apke.

P 83

9.22

- Cmcil cd be quada for several years.

- Swirl seat is optm my hot to profuna for everyone.
- Subject - info's get report. about D.D Act shd be taken into a/c.

Govts intention P 137

2 man vernal in/int: • wheelch accessible

- must also be able to transfer to vehicle seat

- swirl seat spec. is fixed to

- other cmcils. Rdg. Aug. has work in L. black c-b types.

W Dennis

- Cmcil havent gne that far

2 mar vgt. trun on board • pmsrd as alternatives.

alternatives

left into? / or shift into a seat.

Some may be capable. Other not.

Proper objective - A fair access. no ultimate motive

dis-blet get flexib. A choice in use it be truce

: Safety ?

• Cmcil extrom acceptiv. about it is safe.

P. 220. McDonald's letter.

C=U Regs.

Dynamic testing. Req 17 seat anchorage etc.

221. no mandates for side air bags. seat belt pretensioners

- Choice of consumer.

no evidence to suggest reduce safety by no mandatory standard.

Hyundai will depend on model year used 222

no problems: Galaxy acceptable to Council.

Other models have various small cushions. Scarborough made a change to

small cushion: no safety testing of small cushion.

entry diff. object - chalk - cheese

not lockable. can't entry small out.

no problem with air bags. with small seat:

Small seat placed into front of the rearview.

• Will it give drivers false hope. officer's opinion. no technical data

• not abandoned in entirety. • not universal conclusion

Small seats are the safest solution. not usually difficult to use.

maybe for lot here. SAFETY PARAMOUNT.

• Many drivers already equipped - appeal that he is full knowledge

of emblem. Known but placed to assist.

• Ophi 5 inc. quality / access. quality & position / basis rear necessary.

Appellants.

ground set mt.

Condition not was nec cond. Km:

1) when is necessity. 2 plus - can't Govt in legislat
or L/A correct w/ach. discl. request to make more accessibility
v type needed.

Dis. Disc. Act 1995.

S. 32. may make regs

(3) will make in an Advance

no such regs have been made.

propo to P. 134

136 draft Hatched not copied with.

d 138 prov. license taxis

Clear rights to existing wheelchair acc. taxi. many black cabs.

need discl. in for pose i wheelchair acc. taxi.

139 diagram. what regit will be

Stat i House. Nov 2003

W/Bans i 1st phase

Donald McDonald. (Letter i bundle). June 2003. ask why t/taxi not full mod.

Q: are max of pm. 100% - wheelchair accessible

use of black cab i Newbury. not to bottom Act.

Curbs will have post black cab to galoon.

if op black cab i - then an am. economic disadvantage.

us at pyle i /at practicality. - Govt give little guidance.

push for disabled city?

MCL report: P 7.23 / 7.24

now expr by disabled community

P. 60

- rel. with class is important thing.

P 62. 7.38 - ref to wheelchair accessible vehicles.

Conclusion. bear in mind - road - by - only accessible - H.C. - spoken.

by car by to H.C. vehicles can't be private hire.

P 71:

8.50

that pt seemed to be lost. economic disadv. w/ chair vehicles are not.

no unmet demand:

Disability City news? app. to be about

July 2000 - must start fuel calculation in L. cabs.

don't want LA of black cabs.

Consult with input of condition.

Just P e-mail news - prefer not to use it

not fit for inland purpose. marginal benefit in going across.

- in order to ensure w/c vehicles. no. Concl. Corporate item.

- how Concl. would usefulness of the same the introduction.

- no feed back since no steps to be if needed or used.

T. Ousik. sys. next not used. none found it useful.

- reduce of cost. not as comfortable as we replaced.

Reasonable way? Is it safe. Yes it is. accept.

no status applies. not mass marketed item

Loss of safety features side air bag:

Does it improve access. - had demo of it in use.

- small no of people. - costly. any vehicle will be full with small seats.

h/room etc:

doesn't meet purpose behind it - what about needs of non-disabled.

• permanent adaptation: does affect experience of other people.

it is relevant - places car @ disadv. in open market

Let's put it out - front seat - not suitable - loss of headroom.

Worst support. my. run do. best.

Door loses ability to use on of the 3 seats.

Soc. gain environment of preferences. - places car differently

users choose aged vehicles.

Alternatives? wrong approach. - are they really necessary conditions.

Orisk. fitted seat - hasn't used it.

- People can't? doesn't mean do. vehicle. too large to get into.

- indic. that Council take about cars. - quite common. access taxi/juni. sub but not about their usefulness.

Council pair scan on small ashim. Sub. use it - same function. note permanent adaptation:

what they have done isn't common sense. | Door cycle use it. obs. more aged. no benefit to that extent.

McHugh. P 292

• View entrance casually. but no change in position once expressed thought by that trade.

Rdg. Sigh. gov. move to wholly bicucabes. diff. nature of Rch. - Stronger more densely populated -> why

laudable aim. of Council. but wish to stand in the way.

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Title of Report: Disabled Taxi Access	Item 4
Report to be considered by: Licensing Committee	

Purpose of Report:

To report back to Members on the outcome of the Task Group's investigation into disabled access to taxis in West Berkshire.

Recommended Action:

To note the report and adopt the recommendations listed in the report.

List of other options considered:

Three options are set out in the report including taking no further action and appealing against the Stipendiary Magistrate's decision

Key background documentation:

- None

Contact Officer Details	
Name:	Margaret Blaine
Job Title:	Policy and Research Officer
Tel. No.:	01635 519458
E-mail Address:	mblaine@westberks.gov.uk

Supporting Information

1. Background

- 1.1 The Licensing Committee considered a report about Disabled Access to Taxis at its meeting on 7 December 2004 which is attached as Appendix 4(a).
- 1.2 In July 2000 the Council, as the Licensing Authority, considered reports on disabled access to taxis and agreed that taxis licensed after April 2001 should either be fully wheelchair accessible or have an approved swivel seat fitted to the front passenger seat. Taxis operating under licenses issued prior to April 2001 would be exempt from this condition.
- 1.3 Many taxi operators met the condition, but a small number did not choose to do so and chose to appeal. The Stipendiary Magistrate allowed the appeal as he felt that swivel seats, although safe, were not suitable for all passengers. However he noted that, had the Council chosen to impose only the fully wheelchair accessible option, the appeal would have been dismissed.
- 1.4 In September 2004 the Licensing Committee imposed a temporary moratorium on granting taxi licenses in order for a Task Group to be set up who would undertake an investigation into disabled taxi access in the District.
- 1.5 The Task Group, consisting of four Members, met with representatives from the taxi trade and from disabled users to discuss issues concerning taxi access and disability awareness training. Their report and recommendations following these meetings are attached at Appendix 4.

Appendices

Appendix 4(a) – Taxis – Access by the Disabled (Report to the Licensing Committee on 7th December 2004)
Appendix 4(b) – Report and Recommendations by the Licensing Committee Task Group reporting on Disabled Access to taxis in West Berkshire

Implications

Policy:	There is no formal policy on this subject other than the broad policy of the Council linked to equalities below.
Financial:	The recommendations may tend to reduce the number of taxis on the road. This in turn may affect income from licensing although the exact impact is difficult to predict.
Personnel:	None
Legal:	The report summarises the recent legal actions and the recommendations involve imposing new licence conditions for taxis. These reflect the experience of the last appeal.
Environmental:	If Members opt to resolve to impose a wheelchair-only policy for new taxis this may result in fewer additional taxis on the road. The exact impact is difficult to predict.

Equalities: The provision of reasonable levels of access to taxis by disabled people is central to the Council's equality policy. Disability awareness training for drivers of the taxi service will enhance the service provided by the taxi trade.

Property: None

Risk Management: None

Community Safety: None

Consultation Responses

Local Stakeholders: Representatives of disabled groups and the taxi trade.

Officers Consulted: John Priest, Environmental Health Manager
Brian Leahy, Senior Licensing Officer

Trade Union: None

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 14 MARCH 2005

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

PART I

19. APOLOGIES.

Apologies for inability to attend the meeting were received on behalf of Councillors Tony Linden, Alexander Payton and Mike Rodger.

20. MINUTES.

The Minutes of the meeting held on 07 December 2004 were approved as a true and correct record and signed by the Chairman.

21. DECLARATIONS OF INTEREST.

There were no declarations of interest received.

22. DISABLED TAXI ACCESS.

The Committee considered a report (Agenda Item 4) concerning the outcome of the Licensing Committee Task Group's investigation into disabled access to taxis in West Berkshire. The Task Group, which consisted of four Members, had met with representatives from the taxi trade and disabled users and discussed issues concerning taxi access and disability awareness training.

The Chairman of the Licensing Committee thanked all those who had taken the time to join the Task Group and put forward their views which had resulted in fruitful and valuable discussions. The Task Group recognised that any policy and conditions proposed had to be fair to all users of Hackney Carriages in West Berkshire and to the Trade. It was anticipated that the demand for disabled taxis would rise and there was therefore a need to raise the proportion of taxis offering facilities for the disabled. Members however did recognise that taxis offering full wheelchair access i.e. the London taxi type of vehicle, were not necessarily suitable or the preferred mode of travel for all disabled clients, nor was such a vehicle ideal outside urban areas or on rural roads.

Members noted the existing taxi fleet fell into four categories and also that the Task Group had recommended that Disability Awareness Training be introduced for all new taxi drivers at the earliest opportunity.

During discussion on this item Members were pleased to see the recommendation relating to Disability Awareness Training which they were keen to follow up. Members also noted that the survey, undertaken by the Berkshire Disability Alliance, showed that there was a need to have a balanced fleet of vehicles especially as all types of vehicles were not always suitable for all disabilities.

A set of recommendations were tabled which had been produced from the recommendations included in the report of the Licensing Committee Task Group.

RESOLVED that:

- (1) the comments of the Task Group be noted;
- (2) a mixed fleet of vehicles be maintained in service;

LICENSING COMMITTEE – 14 March 2005 – MINUTES

- (3) those taxis licensed before April 2001, the group presently not subject to conditions requiring disabled access, should continue to be free from conditions relating to disabled access, subject to any national legislation which might be introduced at a later date;
- (4) 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;
- (5) all taxis first licensed from 15th March 2005 should be granted on the condition that vehicles provide full wheelchair accessibility;
- (6) unadapted taxis (that is taxis licensed after April 2001 which were not equipped with either a swivel seat or that could provide full access to wheelchairs) should provide full wheelchair accessibility from either the next change of vehicle or 1 October 2006, whichever was the sooner;
- (7) Officers prepare an appropriate scheme of Disability Awareness Training for taxi drivers to be approved by this Committee at a future meeting; and
- (8) Officers prepare a report for this Committee early in 2006 setting out the current make up of the taxi fleet including the proportion equipped or modified for use by disabled people. In addition, the report should set out the current and future state of taxi driver training for Disabled Awareness and would also propose a definitive statement on wheelchair accessibility of taxis.

23. ANNUAL REVIEW OF THE TAXI TARIFF AND REVIEW OF TAXI CONDITIONS.

The Committee considered a report (Agenda Item 5) concerning the maximum scale of fares for licensed hackney carriages operating in the District for 2005/06 and a review of hackney carriage and private hire conditions.

Mr Rodney Nemeth, Vice Chairman of the West Berkshire Hackney Carriage and Private Hire Operators' Association, addressed the Licensing Committee and asked that a fare increase of approximately 3½% be agreed as set out in Appendix 5(b).

John Parfitt, Head of Public Protection, reported that the Anti Social Behaviour Task Group had requested that the Licensing Committee review all taxi licensing conditions in order to reduce Anti Social Behaviour across the District. There was therefore a need, during the next 12 months, to debate the time that the higher tariff applied and also the desirability of increasing tariffs.

Members noted that in order to try and standardise conditions between Hackney Carriages and Private Hire changes had been proposed to the licensing conditions of both groups. The main area of change was that licences would be granted for three years instead of annually. Other changes included for both groups were:

- In relation to CRB checks a processing fee would be charged for each application;
- Where a booking was made by telephone or by prior arrangement a booking charge may be made;
- Drivers may claim exemption from wearing seatbelts if plying for, or actually carrying passengers on hire, but this would not apply whilst driving to and from home or office;
- Due to Government legislation Taxis must carry dogs used for seeing, hearing or assistance, whilst with the owner, free of charge;
- Drivers must disclose to the Council in writing, within seven days details of any convictions.

Members queried whether convictions covered fixed penalty notices or cautions. It was agreed that Councillor Hannon would ascertain this information and report back to the next meeting of the Licensing Committee.

LICENSING COMMITTEE – 14 March 2005 – MINUTES

The Chairman of the Licensing Committee commented that he had found recent dialogue with the Taxi and Private Hire Trade to be very useful. Although he was aware that there was a good dialogue between Council Officers and the Trade he thought it would be helpful if Members and the Trade met occasionally to exchange views and he would be discussing this further with the West Berkshire Hackney Carriage and Private Hire Operators' Association to come up with a suitable date.

RESOLVED that:

- (1) the principle of setting a maximum fare tariff be agreed;
- (2) the taxi tariff as set out in Appendix 5(b) be approved;
- (3) the changes to Hackney Carriage Drivers', Private Hire Vehicle Drivers'; and Private Hire Vehicle Proprietors' Explanatory Guidance Notes and Licence Conditions, as set out in Appendix 5(f), 5(g) and 5(h), be approved.

(The meeting commenced at 6.30 p.m. and closed at 7.05 p.m.)

CHAIRMAN

Date of Signature:

Appendix H

Title of Report: Taxis – Transfers of Vehicle Licences

Item 3

Report to be considered by: Licensing Committee

Purpose of Report:

To introduce measures to prevent the avoidance of conditions intended to provide access for the disabled.

Recommended Action:

That Committee approves the conditions at Paragraph 3 of the Report in relation to licensed hackney carriages:

List of other options considered:

None

Key background documentation:
(bulleted list format)

Agenda for Licensing Committee of 14th March 2005.

Contact Officer Details

Name:	John Priest
Job Title:	Environmental Health & Licensing Manager
Tel. No.:	01635 519167
E-mail Address:	jpriest@westberks.gov.uk

Supporting Information

1. Background

1.1 This report refers to hackney carriages, which for readability here are called taxis. It does not include private hire vehicles which are subject to different rules.

1.2 In September 2004, this committee considered a detailed report suggesting various changes in the licensing of taxis to improve access by the infirm, elderly and the disabled. Committee resolved to suspend issuing further licences and to set up a member working party. That Working Party reported back at the March 2005 meeting of the Committee, its recommendations were accepted, and committee resolved accordingly. However in doing so no account was taken of a recommendation made at the earlier September 2004 meeting. This addressed the need to introduce a condition designed to prevent proprietors entering into arrangements to share an interest in a licence intended to avoid conditions aimed at improving access for the disabled.

1.3 At the meeting of this Committee on the 14th March 2005, in summary, it was resolved that the position regarding the application of disabled access conditions would be as follows:

1. **Licences issued prior to 1st April 2001.**

These licences would continue to operate free of any disabled access conditions.

2. **Licences issued from 1st April 2001 to date.**

These licences had previously been subject to the SAV conditions imposed as a result of the decision of the Licensing Committee in June 2000.

The licences within this category can be sub-divided into two groups:-

a) **Those who complied with the old SAV condition by either providing a wheelchair accessible vehicle or a swivel seat.**

Proprietors who complied with the SAV condition will be allowed to continue to operate under that condition and will not be affected by the new disabled access conditions.

b) **Those who did not comply with the SAV condition and either appealed to the Courts against the condition or did not comply pending the outcome of the appeals brought by a number of proprietors.**

Any proprietor falling within this category must supply a wheelchair accessible vehicle by 1st September 2006.

3. **New Licences**

All new licences in respect of hackney carriage vehicles will contain a condition requiring that the vehicle be fully wheelchair accessible with immediate effect.

1.4 It can therefore be seen that taxis first licensed before 1 April 2001 need not provide facilities for disabled passengers such as being wheelchair accessible. Licences issued subject to the SAV condition will also not be required to comply immediately with the new disabled access condition. It has been the experience in the past that exempt licences could change hands in such a way as to avoid compliance with new conditions. Members clearly wished to avoid this happening in respect of the new disabled access conditions.

2. Options

2.1 When originally discussed by members of this Committee there was general support for the suggested wording:

No taxi proprietor may enter into arrangements with another person to share an interest in a taxi plate in circumstances intended to avoid any condition providing facilities for the disabled.

2.2 Subsequent legal advice is that this condition may lack precision and is too subjective. Instead it is now proposed that a condition is applied preventing any new licence sharing arrangements except by members of a family.

2.3 Given that the restrictions on the number of taxi licences was lifted some time ago, this condition should not interfere with the legitimate acquiring of a taxi vehicle licence. Anyone meeting the necessary conditions will be granted a taxi licence irrespective of how many licences have already been issued. New licences will however only be granted for taxis that are fully wheelchair accessible.

3. Recommendation

3.1 In order to avoid the possibility that licences will be transferred to avoid the disabled access condition, it is recommended that the following conditions be attached to ALL licences.

1. If a taxi proprietor transfers in whole or in part his interest in a hackney carriage proprietor's licence, that transfer shall, subject to the family exemption, be treated as a grant of a new licence for the purpose of the applicability of the disabled access condition. Therefore, the disabled access condition requiring the provision of a fully wheelchair accessible vehicle will be applied to that licence with immediate effect from the date that the licence is transferred.

The Family Exemption

2. Any transfer by a hackney carriage proprietor of an interest in his licence, in whole or part, which is limited to a transfer of such interest to a member of the proprietor's immediate family as defined below, shall not be affected by the disabled access condition to any greater extent than the licence would have been affected had the transfer not occurred. Therefore, upon a transfer to a family member of an interest in a hackney carriage proprietor's licence, the relevant disabled access condition applicable to that licence immediately before the transfer was effected will remain in force.

3. For these purposes, 'immediate family' shall mean the:-

- Mother or Father
- Spouse or partner
- Children
- Brothers or Sisters
- Step-Mother or Step-Father
- Step-Children
- Step-Brothers or Step-Sisters

of the hackney carriage proprietor, but shall not extend to any additional family member.

4. Where it is claimed upon the transfer of an interest in a hackney carriage proprietors licence that the family exemption applies, it shall in every case be for the proprietor of the licence to prove that a family relationship exists within the above definitions.

Appendices (in list format)

None

Implications

Policy:	Applying this restriction will assist in helping to maintain a proportion of the taxi fleet with facilities for the disabled.
Financial:	None
Personnel:	None
Legal:	The suggested wording should improve clarity and legal precision.
Environmental:	None
Equalities:	This condition will ensure the elderly, the infirm and the disabled have reasonable access to taxis.
Property:	None
Risk Management:	None
Community Safety:	None

Consultation Responses

Local Stakeholders:	The limited time available has prevented detailed discussion with the taxi trade on the wording of this condition. However the trade was consulted and was in general agreement with the earlier wording suggested in September 2004. However this latest version is different and Members may wish to suspend standing orders to allow representatives of the trade to address the Committee.
Officers Consulted:	Elizabeth Howlett, Legal Services.
Trade Union:	Not applicable.

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 26 APRIL 2005

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

PART I

24. APOLOGIES.

Apologies for inability to attend the meeting were received on behalf of Councillors John Farrin, Roger Hunneman, Alexander Payton and Mike Rodger.

25. DECLARATIONS OF INTEREST.

There were no declarations of interest received.

26. DISABLED TAXI ACCESS.

The Committee considered a report (Agenda Item 3) concerning the transfers of vehicle licenses for taxis. The recommendations in the report of the Working Party set up to consider changes in the licensing of taxis to improve access by the infirm, the elderly and the disabled had been accepted at a meeting of the Licensing Committee on 14 March 2005. However, no account had been taken of a recommendations made at a meeting of the Committee in September 2004, addressing the need to introduce a condition designed to prevent proprietors entering into arrangements to share an interest in a licence intended to avoid conditions aimed at improving access for the disabled. This report sought to address this issue.

.Mr Nemeth, a representative of the West Berkshire Hackney Carriage and Private Hire Association, in addressing the Committee made the following points:

- He had attended the original policy meeting with the Working Party and had welcomed the measures introduced on 14th March. The Association had accepted the concern of Members to keep a percentage of the fleet accessible to the disabled.
- The Association had thought that the aim of introducing the conditions was to increase the percentage of fully wheelchair accessible taxis to 30 - 40% of the fleet over a period of time, with 50 – 60% remaining as saloon cars. They felt that this split would result in the trade, the needs of the public and the disabled well represented.
- He felt that if the conditions as set out in the report were to be imposed on proprietors then the percentage of fully wheelchair accessible taxis would rise to 100%, and the 50% would be eroded. He suggested that those licenses issued before April 2001 should keep their grandfather rights and transfer with no restriction until such time as Government legislation changed, thus keeping a balanced fleet.

Members noted that Government intended to introduce regulations requiring taxis to be wheelchair accessible by 2010 with full implementation by 2020. Currently 4% of the fleet in West Berkshire was wheelchair accessible. Members were mindful that there was an increasingly ageing population, and that more premises were being made suitable for the disabled. This would result in an increased demand for taxis which were accessible to the elderly, the aged and the disabled.

LICENSING COMMITTEE – 26 April 2005 – MINUTES

RESOLVED that:

1. The following conditions be attached to all licences:
 - a) If a taxi proprietor transfers in whole or in part his interest in a hackney carriage proprietor's licence, that transfer shall, subject to the family exemption, be treated as a grant of a new licence for the purpose of the applicability of the disabled access condition. Therefore, the disabled access condition requiring the provision of a fully wheelchair accessible vehicle will be applied to that licence with immediate effect from the date that the licence is transferred.

The Family Exemption
 - b) Any transfer by a hackney carriage proprietor of an interest in his licence, in whole or part, which is limited to a transfer of such interest to a member of the proprietor's immediate family as defined below, shall not be affected by the disabled access condition to any greater extent than the licence would have been affected had the transfer not occurred. Therefore, upon a transfer to a family member of an interest in a hackney carriage proprietor's licence, the relevant disabled access condition applicable to that licence immediately before the transfer was effected will remain in force.
 - c) For these purposes, 'immediate family' shall mean the:-
 - Mother or Father
 - Spouse or partner
 - Children
 - Brothers or Sisters
 - Step-Mother or Step-Father
 - Step-Children
 - Step-Brothers or Step-Sistersof the hackney carriage proprietor, but shall not extend to any additional family member.
 - d) Where it is claimed upon the transfer of an interest in a hackney carriage proprietors licence that the family exemption applies, it shall in every case be for the proprietor of the licence to prove that a family relationship exists within the above definitions.

27. ANNUAL REPORT OF THE POLICE

Inspector Peter Edwards and Sergeant Shane Cook from Thames Valley Police addressed the Committee.

Inspector Edwards informed the Committee that the Annual Report of the Police was similar to the Brewster Report. It outlined the Police's current approach to licensing issues based upon the four objectives of the Licensing Act 2003 and was an up-to-date document representative of the views of the Police.

Inspector Edwards reported that West Berkshire was recognised as a safe county with relatively low crime levels. Thames Valley Police continued to work with licensees and generally maintain good relationships with them. The Police would not be complacent about the fact that the new Licensing laws presented new opportunities to tackle existing issues around licensed premises.

During close consultation for West Berkshire's Licensing Policy, Thames Valley Police had forged a strong relationship with the Council. Inspector Edwards added that the Police looked forward to

LICENSING COMMITTEE – 26 April 2005 – MINUTES

working with the Licensing Committee under the new system which transfers licensing authority from the criminal courts to the Council.

The prevention of crime and disorder

Inspector Edwards cited the first objective of the Licensing Act 2003 as the primary focus for the Police, with regard to licensing issues. Whilst in many areas of the country violent crime had risen, in West Berkshire the figures for Actual Bodily Harm (ABH) had fallen from two years previously. Much of the current success was down to the group Pub Watch as a communication and cooperation tool. This group had successfully created an agreement of exclusion of the serious offenders from all premises, and the Police found this was a great deterrent.

Currently under development was the Newbury town centre Alcohol Impact Assessment. The Police would use the findings of this Assessment to object to future license applications where appropriate. Inspector Edwards informed the Committee that the Police would approach the Council with the request to adopt the Alcohol Impact Assessment as part of the West Berkshire Licensing Policy.

Public safety

In Newbury, the presence of 40-50 Pub watch door staff on Fridays and Saturdays provided useful support to Thames Valley Police. Door staff were an effective resource for several reasons: they provided visual reassurance for the public, expelled unruly customers, maintained safety and provided first aid where necessary. Inspector Edwards reported that almost half of all violence was alcohol related. Disturbance of this kind, such as the use of glasses and bottles in assault, was not high in West Berkshire. Inspector Edwards informed the Licensing Committee that they were considering imposing conditions for premises, such as serving drinks in plastic glasses and counting bottles, in order to reduce the opportunity for violence of this nature.

Inspector Edwards remarked that in the experience of Thames Valley Police, licensees sought to have the maximum capacity possible for their premises. Overcrowding was said to impact upon public safety and the Police closely monitored capacities applied for by individual application, as well as the cumulative effect of increased licensed premises and capacities.

CCTV coverage continued to be patchy in some premises which was often due to poor maintenance. Inspector Edwards reported that it was very important that a high standard of CCTV was maintained across premises in order that public reassurance was upheld and criminal occurrences were recorded. New applications and variations were an opportunity to implement requirements for a certain standard of CCTV.

The prevention of public nuisance

Although the Police harbored no major concerns regarding Public Nuisance, they acknowledged that there was much potential for complaints relating to disturbance from licensed premises. Where it was appropriate, the Police would work with the Council and possibly utilise legislation such as the Environmental Protection Act in the issuing of licenses.

Late night refreshment premises and vehicles impacted upon Crime and Disorder issues. The Police frequently attended late night refreshment premises in order to deal with public order incidents; often occurrences took place after these premises had closed. In Newbury town centre, the combined provision of late night refreshment and a taxi rank on the Market Place had been effective in reducing the amount of people lingering in the early hours.

The protection of children from harm

Inspector Edwards informed the Committee that there was no evidence of widespread underage drinking but Pub Watch had reported that there were frequent attempts to enter premises using false identification. The Police were considering issuing a recommendation that only two types of identification be accepted: a photo driver's license or passport. Inspector Edwards reported that Thames Valley Police would continue to work with West Berkshire Council in keeping abuse of legislation low.

In Thatcham, a pilot multi-agency group had been successfully addressing the issues surrounding underage drinking, including working with local primary schools to identify the potential for problems. If the work of this group met best practice conditions, there would be the potential to roll-out over West Berkshire.

28. CURRENT STATE OF LICENSING IN TRANSITION

The Committee heard a presentation from John Priest and Brian Leahy concerning the current state of Licensing applications. The new system had come into effect on 7th February 2005, and the last date for applications to be received was 6th August 2005. There was no slippage period.

There were three types of applications, personal, premises, and new premises. Of the expected 2,000 applications for personal licenses only 26 had been received so far, and of the expected 400 premises applications only five had been received. There had been two new premises applications, both of which were going to a Licensing hearing on 28th April. Many applications had been returned as they had not been correctly completed, and Licensing Officers were taking many telephone calls, particularly from Solicitors, asking for advice on completion of the forms. Licensing Officers felt that they had good routines in place, and good relationships with authorities such as the Police and Fire Authority. The Council was ready to deal with applications as they came in, but there was concern that the timescale was reducing rapidly and that resources would be stretched to cope with the expected influx. If there were to be non-determination of applications premises licenses would be deemed to have been granted, while personal licenses would be deemed to be not granted. Officers were of the opinion that there might be a number of people and premises not legitimately able to carry on trading.

Officers suggested a number of reasons why there had been so few applications to date. These included:

- the lateness and poor drafting of the regulations;
- problems with obtaining plans of premises and copies of original licenses, which were the basis for the new licence. There were up to 15 pages of embedded conditions in the original licences which licensees could apply to have removed;
- confusion within the trade as to who should be applying for the license, as there were many instances of tenants, lessees, pubcos and Solicitors, all of whom might be assuming that someone else was applying for the licence;
- complex statutory forms
- costs – currently the cost of the licence was £37 for three years, whereas under the new system the costs could amount to £4,000;
- apathy, which Officers thought played a considerable part in the dearth of applications.

Officers had held several trade forums, sent out many newsletters dealing with both general and specific aspects of licence application, and had advertised in the media. In addition they had

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undertaken many personal visits. They would be sending out further newsletters, continuing local publicity, having face to face meetings with licensees, and targeting specific groups, particularly those for whom English was not a first language.

Officers gave reassurance that no matter how late the applications were received they would all be given due care and attention.

Officers had spoken at length to the local press, but as yet no article had appeared. Police Sergeant Shane Cook offered to encourage them to do so when he had a meeting with them the next day.

Members were concerned that as yet the Council had not licensed its own areas, but were informed that Brian Leahy would be holding a meeting with a senior Officer to discuss this.

(The meeting commenced at 6.30 p.m. and closed at 8.05 p.m.)

CHAIRMAN

Date of Signature:

Appendix I

Brian Leahy

From: MICHEAL HUTCHINS [mickhut@btinternet.com]
Sent: 30 November 2014 11:16
To: Brian Leahy
Cc: john.carr@wbda.org; Valerie Witton
Subject: Fw: Swivel seats in taxis

Hi Brian,

After further thought on the matter re swivel seats, we would like to add a proviso to our support for option 2. To retain the goodwill of the taxi drivers and ensure they can build in the cost of possible vehicle replacement into their business plans we would be happy to see the 29 swivel seat vehicles being retained once the swivel seats are replaced with the understanding that they are replaced by a wheelchair accessible vehicle when the original vehicle is changed.

Mick Hutchins, Chairman, West Berkshire Disability Alliance.

----- Forwarded Message -----

From: MICHEAL HUTCHINS <mickhut@btinternet.com>
To: Brian Leahy <BLEahy@westberks.gov.uk>
Cc: "john.carr@wbda.org" <john.carr@wbda.org>; ValerieWitton <vwitton@westberks.gov.uk>
Sent: Monday, 24 November 2014, 18:57
Subject: Re: Swivel seats in taxis

Hi Brian,

The West Berkshire Disability Alliance (WBDA) supports option 2 which would eventually give us 60% of the fleet as wheelchair accessible vehicles, which must also go in hand with rigid enforcement to ensure that all operators do not refuse wheelchair users access to these vehicles on the grounds of pieces of missing equipment or lack of knowledge about how to use equipment. Finally, we would also encourage the council to continue with its excellent awareness training for all taxis drivers.

Regards,

Mick Hutchins, WBDA Chairman.

From: Brian Leahy <BLEahy@westberks.gov.uk>
To: Mick Hutchins <mick.hutchins@wbda.org>; Valerie Witton <VWitton@westberks.gov.uk>
Cc: Cheryl Lambert <CLambert@westberks.gov.uk>; Sharon Gavin <SGavin@westberks.gov.uk>
Sent: Monday, 24 November 2014, 10:33
Subject: Swivel seats in taxis

Good Morning both

The trade have asked us to do something about converting all swivel seated taxis to either wheelchair accessible or saloon cars.

Those that own this type of vehicle naturally want to go saloon (option 1) but many others believe that wheelchair accessible is the right way forward (Option 2).

We currently have 29 swivel seats, 88 wheelchair access and 72 saloon or non conditioned vehicles.

I am in favour of getting rid of the swivel seats for the reason that I know that they are not used and in most cases probably not even offered. Swivel seats have moved on in design and are now manufactured in an electronic version however this starts at around £1250.

The fleet currently stands at;

Wheelchair access	46%
Swivel seat	15%
Non converted vehicle	39%

Clearly if we go with option 1 the fleet will remain 46% wheelchair accessible, with option 2, 61% will be wheelchair accessible.

In addition to the saloon car taxi fleet we also have 138 private hire vehicles, which really should be brought into the equation, almost all of which are non wheelchair accessible vehicles. This gives a total fleet of taxi/private hire vehicles of 330.

In combining the fleet, total wheelchair accessible vehicles would be, at option 1 - 27%, at option 2 – 36%.

Do you have a view on either option, taking into consideration that all taxi/private hire vehicles can be booked but only taxis can be hailed in the street or operate from a rank. The consensus on all hiring's is that the main proportion of journeys are pre booked and not from a rank.

I need to get a report in for Committee by 1 December so a swift reply would help. Sorry about the tight timescale.

Regards
Brian

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Testing of the Elap seat

January 2000

The Testing and Development of the Elap seat

Seat Testing

At this point in time there is no legislation either European or National to govern the strength and durability of replacement car seats. Despite this Elap have maintained their usual policy of ensuring the highest possible standards for their products.

Elap are proud to have established an in-house test facility so that complete tests of the seat and rotating unit can be performed when required.

Despite there being no legislation to adequately cover the strength of rotating car seats; Guidelines have been designed for this purpose by STATUS which is a recognised authority for the testing of such units.

The guidelines are based almost entirely on the ECE Regulations which cover original equipment seats in all European vehicles. They have only been modified where necessary in order that the ECE test procedures adequately encompass rotating seats. The resulting guideline clearly is not a 'soft option' but is in fact a more rigorous test than the procedure on which it is based.

Clearly a replacement vehicle seat, of any kind, should be expected to meet the same safety standards as those of the seat it replaces.

Elap have therefore adopted this test procedure, to which all our rotating seat units are designed and where necessary tested. Both the Upholstered seat and the rotating and sliding mechanism have been tested, from the chassis securing bolts to the head-restraint.

We feel that our customers are entitled to a replacement seat which is of at least the same quality and durability as that of the existing seat in their vehicle. As an example the cloth used on our upholstered seat is the same cloth as that used by a leading car manufacturer on their luxury models, not the cheapest alternative. This policy is repeated throughout the manufacture of our whole seat unit.

Independent Tests

In addition to in-house testing we have had independent testing of the seat unit carried out so that our results could be validated.

Testing has been performed by a Nationally recognised authority solely concerned with the testing and certification of vehicle components. This testing programme was

completed by December 1992, perfectly timed for the new European Market which began in January 1993. Copies of this report are available from Elap.

Elap rotating car seats have been shown to conform to:

Seat, seat anchorage and head rest strength.

ECE Reg/17 [6.2, 6.3, 5.1.5]

EEC Dir/74/408 [6.1, 6.2, 6.3, 7.1]

Seat belt anchorages.

ECE Reg/14 ; EEC Dir/76/115

Head restraint strength test.

ECE Reg/25 [7.4]

Continued Development

After completing the testing of the seat unit we did not stop development of the seat. We have always maintained the policy of continual development of the seat unit over the past two decades and we will continue to develop and improve the unit in the future. This we feel ensures that Elap retains the reputation of being the worlds' leading rotating car seat manufacturer.

Quality Control

All our units are manufactured completely in house by our experienced workforce. Throughout every stage of manufacture quality checks are performed. In addition a full quality control check is performed on the final assembly prior to despatch from our factory. We feel this is the way to ensure that the rotating seat you receive is of the highest possible standard.

Warranty

All our rotating units and our upholstered seats are covered by a full 12 months guarantee against defective workmanship. Should you feel that your unit, in any way, is not of the standard expected from Elap do not hesitate to contact us.

In almost two decades of manufacturing and supplying rotating car seats to the disabled we have never charged one of them for a repair or replacement of their unit, regardless of the length of service. A record of which we are extremely proud.

STATUS

SPECIALIST TRANSPORT ADVISORY & TESTING UTILITY SOCIETY

Letter of conformity from above body confirming ELAP's
successful performance against STATUS own and ECE test criteria.



Department of Mechanical Engineering
John Dalton Building
Chester St
Manchester
M1 5GD

Mr Chris Lord
ELAP Engineering Ltd
Fort Street
Accrington
Lancashire
BB5 1QG

Tel: Gen. 061 236 8040
GR 061 247 6242
DB 061 247 6240
Fax: 061 247 6326

15/4/94

Dear Chris

TESTS CONDUCTED ON A ELAP MK 3 SEAT

This letter is intended to provide confirmation that Seat and seat anchorage tests have been conducted to the specifications stated in 5.9, 5.10, 6.1, 6.2 and 6.4 of ECE Regulation 17 and paragraph 6.2 of ECE/74/408. The seat supplied passed strength and deflection tests as specified in the above ECE Regulation and EEC Directive.

The ELAP Mk 3 Seat as supplied passed tests for the strength and deflection of the seat back, the base frame assembly (including swivel), the back angle adjustment system and the head restraint. The seats as supplied would therefore comply with STATUS requirements for seats of this type.

Yours sincerely

Denzil Brunning
STATUS Engineer

gowrings mobility

CERTIFICATE OF E.C. STANDARD OF MANUFACTURE & INSTALLATION

Mechanism Number: 2303092

As the provider of the Gowrings Mobility Standard Swivel Seat mechanisms we confirm that this mechanism has been precision engineered and assembled to the standard required by the T.U.V. Rheinland Test and Test Report and therefore is suitable for use in accordance with the E.C. pattern of requirements. The upholstered seat is also T.U.V. tested and meets all relevant E.C. requirements.

This mechanism has been supplied to:

Mr Tony King
26 Railway Road, Newbury RG14 7PE
Vauxhall Vectra
K1 AWK
On 20th March 2003

Signed for and on behalf of
Gowrings Mobility Products Ltd.
On 26th March 2003



Gowrings Mobility Products Limited
Bone Lane
Newbury
Berkshire
Page 77 RG14 5UE

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- o AS9000 / AS9100 Certification (ANSI - RAB)
- o Mechanical & Electrical Safety Testing and Certification
- o Management System Certification including ISO 9000; QS-9000; ISO 14001;
- o ISO/TS 16949; TE Supplement Certification; VDA 6.1
- o Crash Tests / Research and Development
- o Electromagnetic Compatibility (EMC) Testing & Certification
- o Environmental Testing and Certification
- o Electronics testing for automotive components and accessories
- o Mechanical Safety
- o Noise Testing and Certification
- o Vehicle Safety, on-road and off-road
- o COTS Certification
- o And much more

Transportation press releases

Herga switches on to single-source safety testing

issued: 20/11/00

We partner with leading automotive manufacturers - like Audi, BMW, Mercedes, Porsche, Volkswagen and others in numerous areas related to safety, internal manufacturing process and product quality, codes and standards development, alternative fuels R&D, ISO 9000 / QS-9000 / ISO/TS 16949 / VDA auditing services and more. We perform research, testing and certification for nearly every part of a vehicle imaginable, from tyres to electronics to glass, plastics, fabrics and engines. As the world's largest independent provider of EMC testing, we play a vital role in safety for automotive electronics.

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Background Information 2

Accessibility to taxis for people with disabilities - WBC's requirements re SAVs

Background:

WBC's strategy for taxis (and private hire services) has been based upon the following objective:

"More vehicles, for more people, for more hours over more of the district"

This strategic objective came about as a result of a number of factors, which included:

- The highly closed and inefficient market created as a result of a very low number of taxis permitted to operate in the former Newbury Borough zone.
- The existence of two licensing zones which prevented taxis plying for hire throughout the district and resulted in situations where a taxi which had conveyed passengers from Newbury to Theale, could not accept passengers for the return journey but had to return empty to Newbury town to seek a fare (The reverse held good)
- The lack of taxis which were suitably accessible or adapted to facilitate use by people with disabilities.
- The lack of taxis operating at times when the public needed to use them

In 2000, the then Public Protection Committee embarked upon a process of opening up the taxi-licensing regime, to encourage dual licensing of vehicles so that all could operate throughout the district. The proposal was fiercely opposed by the Newbury Town taxi association who saw their closed market under threat of being opened up. The "District" association, which represented almost all other taxi operators, gave it their approval as a way forward.

WBC's policy was that anyone who sought to take advantage of the new regime should meet new requirements for vehicles to be "Suitably Adapted or Accessible Vehicles" (SAVs). In recognising that the established trade would need time to adjust to the new requirements, the Council agreed to allow existing license holders a period of derogation until 1/4/03 to comply and/or the option to not apply for a dual licence and remain unaffected by SAV requirements.

While the Newbury Town licence holders argued against any changes to the licensing regime, the "district" association (which included the present opponents of the SAV requirement) agreed that the proposals offered the best way forward to achieving the Council's and their member's aspirations. The Town association sought a Judicial Review. The outcome of the JR was that the town association was roundly condemned by the High Court who stated that the application was motivated by self interest and trade protectionism. It confirmed that WBC had acted reasonably in its dealings with the trade and that the SAV requirements were legal, reasonable and in the public interest. (Costs of £25,000 were awarded to WBC to be paid by the NTHCOA).

The new regime was introduced and over the two years since its introduction there have been regular liaison meetings between council licensing officers and officers and members of the Newbury Town Hackney Carriage Owners Association and the West Berkshire District Hackney Carriage Association, the latter who have now lately created a "West Berkshire District Hackney Carriage Association Disability Sub Committee".

The SAV requirements have been the subject of regular discussions but it is only recently, with the date for compliance approaching that opposition from a small number of operators has been given a high profile. In the meantime 14 operators have obtained SAV status either by purchasing vehicles which are designed to convey disabled people in their wheelchairs, or by installing swivel seats in their existing vehicles. Currently 6 have paid cash deposits to a local company authorised by the manufacturers to fit "Elap" seats and have therefore given undertakings to do so and we have agreed to them continuing to trade while they await the fitting of seats. 2 operators are currently awaiting delivery of MPVs.

The rumour "on the street" is that WBC will capitulate therefore there is no point in trying to meet the SAV standards

The Licensing Team has a significant amount of evidence obtained from vehicle manufacturers and insurers that the swivel seats are both technically and legally acceptable. Arguments that in some cases the fitting of a swivel seat necessitates the deactivation of a passenger side air bag are specious. Many taxis do not have passenger side air bags and in a case where a child is carried in a child seat, passenger side airbags have to be deactivated; indeed some vehicles are now fitted with a deactivating button/switch which can be used by the vehicle owner as they see fit. Manufacturers specify this and insurers do not refuse to insure the situation!

We have evidence from insurers and manufacturers that they find the swivel seat option to be acceptable and will not invalidate insurance cover or guarantees. We have evidence that other LAs have introduced similar or more onerous requirements. The advice from the Disability Rights Commission is that swivel seats are a minimum criteria for increasing accessibility to taxis.

There are three further points worth noting which demonstrate the perverse nature of the arguments:

1. If the trade is so opposed to swivel seats, why did they demand that the Council establish a fund to grant aid any operator who wanted to fit one?
2. When there was a limit on taxi licence numbers, why did the trade insist that any new licences only be granted to vehicles meeting SAV standards?
3. Is the group which styles itself WBHCOA – Disability Sub Committee – really representing the trade association and its membership? We have evidence that it is not!

NOTE:

The Audit Commission and IdEA have recently issued suggested LPIs on equality and diversity in relation to transport services which include the same SAV requirements as specified by WBC.

West Berkshire Council SAV

57 Hackney Carriages will have to be disabled access by the 1st of April 2003. As of today's date 24th March 2003 10 vehicles have already complied with the council SAV requirements. 4 vehicles have installed swivel seats and the other 6 vehicles are MPV with the capacity to take wheelchairs.

Swivel Seats:

There are two main manufactures of swivel seats that we are aware of which fit the councils SAV requirements, these are Elap and Carmobilty. Both seats can be installed locally and cost around £778 including VAT. The seats can be installed in most types/makes of vehicle (see table 1). The only vehicles which cannot be fitted with a swivel seat are:

- Mercedes E Class
- Mercedes C Class current models
- Mercedes Vito
- Mercedes Vaneo
- All volvos except S40 and V40
- All current Mazda models
- Toyota Camry
- Current Vauxhall Vectra (solution being investigated)
- Some high spec current Ford Mondeo

The swivel seat simply replaces the original passenger seat and is able to rotate to help with safe entrance and egress for people with disabled needs. The original seat can be refitted when required and the swivel seat can be installed into another vehicle at a cost of under £200 pounds. The advantage of the swivel seat is that it allows a passenger to enter the vehicle without any unnecessary twisting of the body. It also allows some wheelchair user to transfer them self from the wheelchair in to the vehicle with greater ease. Carmobilty can also match the swivel seat with your original colour scheme. Fitting of the seat takes between 1 to 2 hours.

How does the Swivel Seat effect my insurance??

The licensing team have spoken to a number of leading insurance companies asking if they would insure a vehicle / taxi with a swivel seat. The other question asked was, would the modification effect the insurer's premium.

The answer to both questions was quite simply NO.

All insurance companies asked had no problems with the modification and would insure the vehicle without any effect on the holders insurance premium.

All of the below companies were contacted on the 4/3/2003 in relation to disabled access facilities.

The Companies were:

Cabshield: 0800 41 32 71
Swinton Insurance: 0800 0159218
Taxi Insurance Bureau: 0161 280 6666
Barry Grainger Taxi Insurance: 01892 542736
Taxi Direct: 01234 242904
Norwich Union: 0800 096 4715

Air Bags

It is now increasingly common for car manufactures to install airbags in vehicles. These airbags have predominantly been installed in steering wheels and on passenger side dash. More recently airbags have been installed in the seats back "Wing" or in the door or door pillars. Where a swivel seat has been fitted to a vehicle were airbags were present in the original seat those airbags will be lost. It should be noted that side airbags located in the door pillars would have to be disarmed before a swivel seat can be used. These air bags can be armed again when the original seat is reinstalled. The front drivers and passengers airbags can be used with a swivel seat. Airbags are a safety feature but only a secondary safety feature and are not required to be installed by law like seat belts are. There are many questions how safe airbags are. The government is to fund research into the safety of airbags over fears that the devices may be responsible for some deaths. A spokesman of the DETR said " there is not adequate information in this country at present about the safety of airbags" Some manufactures even allow drivers to turn on/off airbags. It is common knowledge that young children and babies should not sit in the front seat if airbags are present.

Will disarming airbags effect a policy holder insurance, Answer NO. All insurance companies contacted on the 4/3/2003 said that airbags are not compulsory and disarming them will not effect the person's policy. The installation of air bag in a particular vehicle does not have to be disclosed on the insurance application form.

How safe are these swivel seats.

At present there is no legislation either European or National to govern the strength and durability of replacement car seats. However both recognised manufactures of the swivel seats have used guidelines set down by ECE regulations which cover original equipment seats in all European vehicles.

The Elap seat has been tested independently and fit the safety requirements laid down by the ECE regulations which cover original equipment seats. The seat conforms to

ECE Reg/17 [6.2,6.3,5.1.5]
ECE Reg/74/408 [6.1,6.2,6.3,7.1]
Seat, seat anchorage and head rest strength.

ECE Reg/14 ; EEC Dir/76/115
Seat belt anchorage's.

ECE Reg/25 [7.4]
Head restraint strength test

The seat has also been crashed tested at the road safety engineering laboratory Middlesex University, and was found satisfactory.

Carmobility seats also fulfil the requirements laid down under ECE regulations.

So both manufacture seats have been tested and are found to be satisfactory.

If I don't want a swivel seats what else can I do?

There two other options that allow Hackney Carriage to correspond with the councils guidelines in relation to SAV. One option is there a number of vehicles on the market that have lift / ramp accesses and are able to accommodate wheelchair uses.

The cheapest one starting at £10,000 brand new but there a number of vehicles that can be found cheaper on the second hand market. There are also a number of companies that are able to convert MPV's and vans so to allow disable access for example gowrings mobility. There are endless number of the vehicles on the market which can suit different needs and budgets and fit the requirements laid down by West Berkshire council. The other option is that some MPV's i.e. the ford Galaxy have already got a swivel seats installed by there manufactures, but these seat must comply with the council guidelines.

Hackney Carriage Proprietors may also consider changing the vehicle to Private Hire.

At present 2 proprietors has informed the licensing team that they will be changing from Hackney Carriage to Private Hire due to the SAV requirements.

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Background Information 3

Briefing Note – Access for Disabled People in Taxis

Following meetings held on 9th April and 6th May 2003 between taxi association representatives and Council Officers, the current position is as follows.

- The Council have provided trade representatives with all available safety data for swivel seats and this appears to be accepted by them.
- The trade representatives with whom we met maintain that swivel seats are uncomfortable and restrict headroom for the passenger. Whilst this may be true in some cases particularly where passengers are tall, the seat does afford better accessibility to disabled or less ambulate persons and should not be dismissed purely on the grounds of discomfort.
- Officers have given their reasons for their belief that swivel cushions are not a feasible alternative to swivel seats. Both types of cushion adaptation, fastened or loose, have the necessity for the driver to materially interfere with the passengers body at some time and swivel cushions are not recommended for journeys which are other than of a very short duration.
- Swivel seats are used by a number of other LA's as a means of achieving a full or partial fleet of taxis which are accessible for the disabled and the trade have been given information and contact details. (Note: The application of such a requirement is not feasible in WBC for the reasons explained later).
- Disabled groups have commented upon the Council's current policy for providing disabled access to taxis. They have also tested swivel seats fitted to WB taxis. It is their belief that although swivel seats are not the preferred method of providing disabled access facilities to taxis for wheel chair bound persons, a swivel seat can improve access to a vehicle seat albeit not being a solution for everyone.
- The disability groups have asked the Council that if they do not go down the route of swivel seats could we make a condition of licence that disability awareness training is mandatory and a minimum of wheelchair accessible vehicles are provided. A proportionate number of vehicles according to available figures of disabled persons in West Berkshire would be in the region of 12%. Trade response to this suggestion is that drivers will not agree to such training for fear of being held liable should they injured person they were assisting as "a trained a competent person".
- The Council have discussed with the trade an option for owners who fit disabled facilities to have licence fees waived or reduced. The shortfall would be made up by increasing all other vehicle fees proportionately. This option will not work for the following reasons:
 1. To have a percentage of the fleet designated as SAV licensed would require the reintroduction of a finite number of taxis within the district. This would be welcomed by some traders as it would see a closed shop being re-established, but it would be contrary to Council policy which is that the market should determine the number, it would also be fiercely opposed by many licensees who have just "escaped" from the previous closed shop arrangements.
 2. If we specify a minimum number of SAV licences, without setting a ceiling on the total number of all licences issued, those with an SAV licence would simply hand it in and then re-apply for a non SAV licence and as long as they complied with our general conditions we could not refuse to issue one. We would very quickly see a rapid reduction in the number of SAVs operating in the district.

3. If we provide free or reduced cost SAV licences, non SAV licensees will have to pay increased costs to off set WBC's drop in income or the Council would have to agree to forego the loss.
- There is shortly to be a modification to the ELAP swivel seat which will allow the seat to swivel electronically. This seat will remove the necessity for any physical assistance by the driver and is considered as an option as well as the fully wheelchair accessible vehicle. That is not to say that vehicles fitted with a non electric swivel seat should not be acceptable.

The current position is:

- Swivel seats are still being fitted by independent operators in West Berkshire without argument. A number of proprietors have indicated that all they request is clarification as to the future so that they can fit seats if necessary and get on with earning a living.
- There are currently 10 vehicles which are fully disabled accessible (will accommodate a person in a wheelchair) and 16 which have fitted or have ordered swivel seats. Some operators are very positive about the SAV proposals and the demand they are serving (see article in NWN Business Section 8/5/03 faxed to you)
- There are still 34 vehicles which have not complied with the condition.
- Two proprietors have informed the Council that they have appealed the disabled facility condition to the Magistrates Court however the Court cannot confirm this as fact.
- We have met with the trade three times, we have addressed their concerns about safety and accept that swivel seats are not comfortable or suitable for all people, but no vehicle or seat design suits all people whether able bodied or disabled. All but [REDACTED] have now accepted that the council's position is reasonable and that we have responded to their concerns in a prompt and reasonable manner.

Officer Recommendations:

1. That there be no change to the current policy and that all licensees who are required to meet SAV standards be advised that they must now do so.
2. In recognition of the doubt and delay caused by this review those licensees who have yet to comply be given until 31/08/03 to do so.
3. WBC and the trade work together to promote SAVs and raise awareness amongst disabled people and their carers and supporters.