

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 18 JULY 2017

Councillors Present: Peter Argyle, Jeff Beck (Vice-Chairman), Graham Bridgman (Chairman), Paul Bryant, Richard Crumly, Sheila Ellison, Manohar Gopal, Tony Linden and Quentin Webb

Also Present: Paul Anstey (Public Protection Manager - Environmental Health & Licensing), Anne Marie Baird (Solicitor), Laura Driscoll (Principal Licensing Officer), Emilia Matheou (Licensing Officer), Julia O'Brien (Licensing Team Manager), Amanda Ward (Lead Officer - Licensing) and Stephen Chard (Principal Policy Officer)

Apology for inability to attend the meeting: Councillor Billy Drummond

Councillors Absent: Councillor Howard Bairstow and Councillor Nick Goodes

PART I

3. Minutes

The Minutes of the meetings held on 10 November 2015, 19 May 2016 and 9 May 2017 were approved as true and correct records and signed by the Chairman.

4. Declarations of Interest

There were no declarations of interest received.

The Chairman, Councillor Graham Bridgman, then made the following points regarding agenda items for future meetings.

He felt there was a need for policy reviews to be undertaken. This needed to include the Council's Licensing Act 2003 and Gambling Act 2005 Policies. Councillor Quentin Webb felt there would be value in considering the policies in place for night time charging as part of this.

Consideration was needed on the profile of applicants for taxi licences. This was alongside Berkshire wide and national debates on the need for enhanced information sharing. I.e. in a circumstance where a taxi driver whose licence had been revoked in one area should not be permitted to apply for a licence elsewhere without awareness of the previous revocation. The procedures followed needed to be reviewed and returned to at a future meeting. Councillor Webb supported this suggestion and added that the Thames Valley Police and Crime Panel had discussed this matter.

Finally, the Chairman requested that relevant statistics should be brought to an annual Licensing Committee to inform Members and the most appropriate timing of this meeting needed to be determined.

5. Hackney Carriage Tariff Review

The Committee considered the report (Agenda Item 4) outlining a request from the taxi trade for an increase in the taxi tariff.

Councillor Graham Bridgman had been made aware of a request from a member of the public to address the Committee and he asked Members if they wished to suspend standing orders to permit members of the public to address the Committee and/or be able to answer Members' questions.

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Councillor Tony Linden pointed out that historically, standing orders had been suspended and he proposed to suspend standing orders. This was seconded by Councillor Jeff Beck and the Committee resolved to suspend standing orders to permit members of the public to speak for up to ten minutes.

Councillor Bridgman invited Mr Nemeth, who submitted the letter and petition on behalf of the West Berkshire Hackney Carriage and Private Hire Operators requesting an increase in the taxi tariff, to speak.

Mr Nemeth made the following points:

- There had been no fare increase since 2012/13.
- A 40 pence increase was requested to an average taxi fare. On average, this equated to an increase of 3-4%.
- The Licensing Committee was asked to set a maximum fare.

In response to Member questions, Mr Nemeth added that:

- Fuel cost varied per gallon, but there were other key factors behind the request for a fare increase which included the increasing costs of providing and maintaining vehicles including their servicing and insurance, as well as rate increases.
- Mr Nemeth added that historically, small increases had been requested on an annual basis. This request was the first brought forward for five years.
- As well as the request for the fare increase, the trade were supportive of operating the three tariff rather than five tariff system.

Councillor Bridgman then explained that he felt it was difficult to equate the proposed tariff rises (actual costs) with the 3-4% average increase described or compare West Berkshire's tariffs to those in place elsewhere, i.e. in Wokingham. Wokingham had a different charging structure which was based on tenths of a mile, the proposal for West Berkshire was to charge for every twelfth of a mile. Mr Nemeth explained that the proposed West Berkshire tariffs had been calculated at a national level by the National Private Hire and Taxi Association. He was unaware of the approach used in Wokingham and was therefore unable to comment.

Councillor Quentin Webb commented that he was largely content with the proposal, however he also questioned the proposed increases. The letter submitted by Mr Nemeth stated that a 40 pence increase was proposed on the average two mile taxi fare. However, the table of fares showed a 65 pence increase over two miles for tariff one. The 40 pence increase was for a one mile journey. Mr Nemeth commented that the average Newbury fare was between 1 mile and 1.5 miles, which cost, on average, £5, agreement of the proposal would result in this average fare increasing to £5.40.

No other members of the public wished to address the Committee and Members agreed to reinstate standing orders.

Councillor Webb stated that he understood the reasons given for the proposed increase which went beyond increases in fuel prices and noted that prices had not been increased since 2012/13. Taking this into account, there was therefore a case for increasing the tariffs. However, he raised a concern should West Berkshire's tariffs be overly high in comparison to other areas if this increase was implemented.

Councillor Paul Bryant noted that inflationary pressures were behind this request for an increase in fares rather than fuel costs. He did not feel that a 3-4% increase was overly high, particularly when there had been no increases since 2012/13.

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Councillor Peter Argyle added that increased maintenance costs of vehicles were a further factor. He felt that the proposed increase was fair.

Councillor Beck agreed that an increase was justified for the reasons explained. However, the level of increase had to be appropriate and was an important point to determine. Currently, West Berkshire's tariffs were similar to Reading and Swindon, and it would be useful to consider this comparison post implementation of the proposed tariff increases.

Councillor Richard Crumly felt that the three tariff charging model was overly complex. He felt it would be preferable to charge per half mile followed by every tenth of a mile. Councillor Crumly felt that a decision should be deferred until a more straight forward charging rate had been established.

Councillor Webb felt that it was sensible that the tariffs existed as these took account of particular times of day and for particular days, i.e. bank holidays. He added his understanding that tariff 3 was rarely used.

Councillor Bridgman agreed that an approach of a set charge for the first half mile, following by set incremental charges for every tenth of a mile was preferable with a correlation between the tariffs. Councillor Bridgman felt that this approach would be more understandable with the tariffs, following this model, largely unchanged from the proposal.

Councillor Webb commented that he was not overly concerned at the existing charging model, a change to a charge per half mile would require a change to the way that distances were measured from yards to decimal measurements and this might prove difficult to implement on the taxi meters. He also made the point that any change agreed by the Committee would need to go to public consultation. Councillor Bridgman pointed out that he was not aware of another authority, outside of West Berkshire that measured distances in yards for this purpose.

Councillor Beck felt that the current system had operated satisfactorily for a number of years for all concerned. He therefore questioned the appropriateness of a significant change, including to the meters. Councillor Bryant was concerned that West Berkshire's approach differed to common practice across the country. He felt that it would be favourable to follow the more common approach. Councillor Bridgman added his view that a move to measuring distances in metres would be preferable, to be consistent with and aid comparisons with other areas.

Paul Anstey noted the complexities involved and noted the sense of Councillor Bridgman's comments to simplify the process. Mr Anstey commented that he was not aware that West Berkshire had a unique approach to the way that distances were measured for the purpose of setting tariffs. However, he explained that the views of members of the public were monitored on the tariffs and the number of complaints received was low. He reiterated the point that agreement to a change would need to be taken to consultation and this would offer residents a chance to comment and/or raise any concerns, as well as the members of the trade.

Councillor Bryant felt that there was uncertainty of the procedures in place in other areas and requested that this be investigated and comparisons made before setting tariffs for future years (beyond 2017/18). However, he felt that proposals for 2017/18 should be accepted and taken to consultation.

Councillor Webb felt that it was necessary to highlight, as part of the consultation, that the proposed charges were the maximum charges permitted and there was the potential for customers to negotiate charges on an individual basis.

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Councillor Beck proposed acceptance of the request from the taxi trade for an increase in the taxi tariff as well as retention of the existing charging format for 2017/18. This would be taken to public consultation. It was noted that if an objection was received as part of the consultation, the matter would need to be brought back before the Committee. A review should then be undertaken over the coming year of the Council's charges/charging mechanism to consider if changes should be made for future years, this would include comparisons with the charging models used by other local authorities and would involve residents and the taxi trade. Paul Anstey agreed this would be investigated. The proposal was seconded by Councillor Webb.

RESOLVED that:

- **The request from the taxi trade for an increase in the taxi tariff be accepted for 2017/18 and the existing charging format retained for 2017/18. This would proceed to public consultation.**
- **If an objection was received as part of the consultation, the matter would need to be brought back before the Committee for final determination.**
- **A review would be undertaken over the coming year of the Council's charges/charging mechanism to consider if changes should be made for future years, this would include comparisons with the charging models used by other local authorities and would involve residents and the taxi trade.**

6. Gambling Act Fees

The Committee considered the report (Agenda Item 5) which recommended that further provision should be made for the collection of seven chargeable fees in accordance with the Gambling Act 2005.

In introducing the item Paul Anstey explained that in July 2007, the Licensing Committee recommended approval of the Council's Gambling Licensing fees. These fees were recommended at 75% of the maximum amount permitted and this recommendation was approved by Full Council in September 2007. This level was estimated at the time to cover the expected cost of the service.

Seven chargeable fees were not in the 2007 report and it was proposed that these fees should be incorporated and also set at 75% of the maximum amount permitted to achieve consistency.

Mr Anstey explained that it was for the Licensing Committee to recommend fees and charges which would then be put to Full Council for approval as part of the annual fees and charges report.

Councillor Jeff Beck questioned why a fee of higher than the 75% of the maximum permitted amount could not be set. Mr Anstey reiterated that this kept the setting of these new fees consistent with those approved in 2007. He added that the existing set of fees largely covered Gambling Act related activity with these additional charges covering the full range. Mr Anstey felt that the impact of introducing these additional charges would be minimal.

Councillor Graham Bridgman pointed out that the Council was not permitted to make a profit from the charging of these fees. The Council was only permitted to achieve a break-even position. Councillor Bridgman therefore queried whether the Council was able to cover its costs. Mr Anstey explained that in general, the 75% of the maximum proved acceptable and he assured Members that monitoring was undertaken to assess the time taken and level of work required to process applications to ensure that full cost recovery was achieved. There was no evidence to suggest that this level of charge was

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insufficient. Mr Anstey added that the setting of these fees at 75% of the maximum was consistent with the practice of the majority of other local authorities.

Emilia Matheou referred Members to page 63 of the agenda which provided the maximum fees that could be charged, alongside the actual charges imposed for existing fees and proposed for these seven additional areas. This covered fees for new applications, variations and for transfers.

Councillor Beck proposed acceptance of Officers' Recommendation to recommend to Full Council that the fees detailed for all the categories listed in the document at Appendix A (2) should be approved. This would form part of the annual fees and charges report considered by Full Council. This was seconded by Councillor Tony Linden.

RESOLVED that the fees detailed for all the categories listed in the document at Appendix A (2) would be recommended for approval by Full Council as part of the annual fees and charges report.

7. House of Lords Select Committee Review of Licensing Act 2017

The Committee considered the report (Agenda Item 6) which outlined the key conclusions and recommendations for local authority licensing arrangements following the House of Lords Select Committee review.

Laura Driscoll explained that the Select Committee had observed poor examples of licensing sub-committees (not West Berkshire) and were recommending that Planning Committees should take over the licensing function. Recommendations also included licensing appeals being taken to the Planning Inspectorate and for licensing fees to be set locally and not nationally.

Laura Driscoll explained that she did not believe there was a large appetite to implement these recommendations by Central Government, although some could be incorporated on a piecemeal approach if it was felt relevant to do so.

Councillor Paul Bryant was of the view that there was no need to alter West Berkshire's current arrangements for Planning Committees and Licensing Sub-Committees beyond minor improvements.

Councillor Graham Bridgman queried the number of Licensing Sub-Committee decisions which had been subject to appeal. Only two could be recollected by Members.

Councillor Quentin Webb expressed his surprise at the comments of the Select Committee. He felt that a professional approach was in place in West Berkshire for Licensing Sub-Committees and he queried whether there was scope for this view to be forwarded to the Select Committee. Councillor Bridgman queried whether a consultation process would follow the publication of the Select Committee's report. Laura Driscoll explained that to date no consultation process was planned, however the Licensing Committee's views could be expressed if/when consultation took place.

RESOLVED that the report be noted, with a comment recording the Licensing Committee's surprise at the findings of the review. It was felt that West Berkshire Council's Licensing Sub-Committees were professionally run, suitable and fit for purpose which was in line with the requirements of the original Act.

8. Update on Training

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The Committee received a verbal update on arrangements and requirements for Member licensing training (Agenda Item 7).

Paul Anstey highlighted the importance of Members undertaking appropriate training before they could sit on and make decisions at Licensing Sub-Committees. This aided those Members undertaking this duty and helped them make good quality and appropriate decisions. Refresher training also needed to be attended to ensure Members maintained their levels of understanding and were made aware of any changes to legislation.

Mr Anstey had ascertained training attendance prior to the meeting from Strategic Support and while there was a reasonable level of coverage among Licensing Committee Members, this was not at the level required by the Constitution and not all Committee Members had received the training required to sit on Sub-Committees. There was a greater risk of challenge in the event that untrained Members formed part of a Licensing Sub-Committee and a decision was then subject to an appeal, although, as noted earlier, the number of appeals were low.

While attendance at the training was not legally required, the Council's approach adhered with Home Office guidance and Mr Anstey restated the view that Members should undertake training before being able to sit on a Sub-Committee.

Councillor Graham Bridgman noted these points and agreed with the importance of Licensing Committee and other Members attending the training before they could sit on a Sub-Committee. However, he queried what mechanism was in place for those Members who, for valid reasons, were unable to attend the training to ensure they could participate in Sub-Committees.

Councillor Tony Linden added the importance of ensuring, perhaps with Group Leaders, that Members appointed to the Licensing Committee were able and willing to attend training to enable them to be part of Sub-Committees. Councillor Paul Bryant stated the view that training was essential before Members could sit on either Licensing Sub-Committees or a Planning Committee.

RESOLVED that the update and the importance of attending appropriate training before Members could sit on a Licensing Sub-Committee be noted.

9. Minutes of the Joint Public Protection Committee

The Committee considered the minutes of the Joint Public Protection Committee (JPPC) held on 14 March 2017 (Agenda Item 8).

Paul Anstey explained that the JPPC (a public meeting) had been formed to oversee the new Environmental Health, Licensing and Trading Standards shared service, established in January 2017 between West Berkshire Council, Wokingham Borough Council and Bracknell Forest Borough Council. The shared service had been formed in order to achieve greater resilience and to share the experience and expertise across the three areas.

The JPPC had met twice and to date had considered a Business Plan, the priorities of the shared service and desired outcomes for the next ten years. West Berkshire representatives on the JPPC were Councillors Marcus Franks and Emma Webster. The agendas, reports and minutes of the JPPC would be published in accordance with democratic processes to ensure adequate public transparency and items would be included on the Council's Forward Plan.

Councillor Quentin Webb felt it would have been useful for the minutes of the JPPC to be accompanied by a brief explanatory note covering the purpose of the JPPC and its

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Terms of Reference. Paul Anstey agreed to circulate this information to the Licensing Committee.

Councillor Paul Bryant referred to the previous item and suggested that Members could access licensing training held in Wokingham or Bracknell to ensure the required training coverage was achieved. Mr Anstey agreed this was the case and it was noted that Wokingham Members attended the training held recently in West Berkshire.

Councillor Graham Bridgman noted that the shared service would aid Officers across the three areas in achieving consistent approaches in the implementation of licensing policies.

Returning to training, Councillor Jeff Beck queried when a barrister would be addressing the Licensing Committee. Julia O'Brien explained that this was being arranged for September 2017.

Anne Marie Baird explained that licensing training had been held for Members in June 2017 and this training would be repeated for the benefit of Members who were unable to attend.

RESOLVED that the minutes of the JPPC held on 14 March 2017 were noted.

(The meeting commenced at 6.30pm and closed at 7.42pm)

CHAIRMAN

Date of Signature