

LICENSING COMMITTEE
MINUTES OF THE MEETING HELD ON
MONDAY, 23 JANUARY 2023

Councillors Present: Phil Barnett (Vice-Chairman), Graham Bridgman, James Cole (Chairman), Billy Drummond, Clive Hooker, Tony Linden, and Graham Pask

Councillors Present Remotely: Jeff Beck and David Marsh

Also Present: Stephen Chard (Zoom Host), Moira Fraser (Principal Officer - Policy & Governance), Julia O'Brien (Principal Licensing Officer), Vikki Rigden (Licensing Officer), Benjamin Ryan (Clerk) and Amanda Ward (Licensing Officer)

Apologies for inability to attend the meeting: Councillor Adrian Abbs, Councillor Steve Ardagh-Walter and Councillor Martha Vickers

PART I

17. Minutes

The Minutes of the meeting held on 7 November 2022 were approved as a true and correct record and signed by the Chairman.

18. Declarations of Interest

There were no declarations of interest received.

19. Update Following Discussions at the Taxi and Private Hire West Berkshire Council Liaison Group

It was proposed by Councillor Graham Bridgman that the meeting be moved to the Roger Croft Room due to the unfit temperature of the Council Chamber and this was seconded by Councillor Phil Barnett.

The Committee **RESOLVED** that the meeting be moved to the Roger Croft Room.

The Committee considered the report (Agenda Item 4) concerning the Taxi and Private Hire West Berkshire Council Liaison Group that met on 9 January 2023 and discussed tariffs for the 2023/24 financial year following the statutory fee consultation. Ms Moira Fraser in introducing the item commented that it was a well-attended and productive meeting.

In terms of tariffs, the trade proposed that the Council align tariff setting to the financial year to assist them with planning. This would mean the Council would undertake an initial discussion on tariffs in October so tariffs could be implemented by 1 April each year as of 2024. It was also suggested that tariffs be linked to the Consumer Price index (CPI).

The Committee **RESOLVED** to note the report.

20. Consultation Responses: Fees for Taxi and Private Hire Vehicles, Drivers and Operators

The Committee considered the report (Agenda Item 5) concerning the consultation responses for the fees for Taxi and Private Hire Vehicles, Drivers and Operators.

Ms Fraser introduced the report by noting that the statutory consultation ran from 17 November 2022 to 15 December 2022. Notices were put in the local newspapers, emailed to taxi drivers, placed on both the PPP and West Berkshire Council consultation pages, emailed to the Community Panel and placed in Market Street Reception.

The consultation managed to garner four responses, with one comment that showed concern over higher fees potentially resulting in higher tariffs and two supporting the increase. The final response raised some concerns about the content of the knowledge test and supported the remittance being offered in relation to electric and hybrid vehicles.

As no objections were received, the fees were to be included in the budget paperwork and would come into effect 1 April 2023.

Councillors Bridgman and Tony Linden noted that it was good to have responses.

The Committee **RESOLVED** to note the report.

21. Hackney Carriage Tariffs 2023

The Committee considered the report (Agenda Item 6) concerning a request from the trade for modifications to the existing tariffs which were raised at the January 2023 Taxi Liaison Group. The Committee was asked to comment on the proposed methodology and timescales for any ensuing consultation process.

Ms Fraser introduced the item by stating that in line with the agreed procedures, an initial discussion with the trade about tariffs took place at the January Liaison Group meeting.

Ms Fraser explained that the trade proposed that they would like to see an increase linked to CPI, which was running at about 10.7% in November 2022. The trade also would like to see an uplift in the fouling charges. They also asked that Members consider amending the wording related to the applicability of tariffs to take into consideration journeys that spanned more than one tariff. The trade also stated that they would like to mandate the use of card facilities in the new policy and the introduction of time and calendar-controlled meters.

The Chairman highlighted that it was not the intention to begin a statutory consultation unless there was a full proposal from the trade and Ms Fraser explained that this was up to Members. However, this was what had been suggested at previous meetings including the January 2023 meeting. Councillor Bridgman noted that the fouling charge was proposed as a maximum and he wanted to understand how any issues between taxi drivers and the individual who had soiled the taxi would be resolved. He also wanted to understand what role West Berkshire Council would have, if any, in resolving these disputes. Councillor Bridgman also enquired if the Council was to get involved whether this would go through an Appeals Panel or a Licensing Sub-Committee. Councillor Bridgman did note that the Appeals Panel would give more flexibility as it allowed for four Members, instead of three.

Councillor Barnett raised concerns over what constituted 'major' soiling, how the driver would identify the individual and how this would be investigated by a panel, as these factors could lead to a complicated investigation.

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Councillor Graham Pask agreed that a dispute should go through a Licensing Sub-Committee and he supported the increase to the maximum fouling charge.

Councillor Bridgman re-iterated that he wanted to understand the role of the Council and what role it had if there was one, as, in the case of soiling charges, he was of the view that this was probably a civil matter.

Councillor Clive Hooker wanted to know whether the Scheme of Delegation would need to be amended to reflect responsibilities associated with disputes over fouling charges and the taxi policy more generally. Councillor Bridgman agreed that these changes would be needed. Ms Fraser stated that the Taxi Policy report would include recommendations around amendments to the Scheme of Delegation.

Ms Fraser stated that it was up to Council to determine where these matters would be determined, but it would make sense for the Licensing Sub-Committee to deal with the license issues. She would seek legal advice but it was likely that disputes around fouling charges would be a civil matter and would therefore sit between the taxi company and the individual.

Julia O'Brien agreed that it would be beneficial for the Council to look at what other Councils did and discuss the way forward with legal to set the criteria.

Ms O'Brien explained that Licensing were in the process of finalising the policy so the team could look into implementing this.

Councillor Bridgman believed that the licensing appeals process should be explored further.

In response to a question of clarification from Councillor Jeff Beck, Ms Fraser explained that passengers would be able to pay for their taxi using either debit or credit cards or other forms of electronic payment

Councillor Linden believed that the use of credit and debit cards was a good thing. The Councillor expressed that if there were no major changes, the consultation period should be shorter to allow for the introduction of the fees in time for April. It was noted that there were statutory requirements around the consultation timescales i.e. a minimum of 14 days.

Councillor Pask supported the implementation of card machines as long as there remained a cash payment option.

Councillor Hooker asked about the flag rate and whether the residents would be aware that the tariffs had been increased after the set fee and stressed that the trade should inform passengers when they got in to the vehicle. Councillor Bridgman replied that the flag rate had stayed the same (with increased increments), however, the distance of the flag rate had changed. It was noted that the wording around applicability on the tariff table would need to change to reflect that the tariff might change during the journey.

Councillor Bridgman sympathised with the trade but explained that it would be hard to bring these tariffs out before 1 April this year, as they would need to go through the Executive, making it difficult to finalise in time. The Councillor also emphasised how the Council's communications needed to guarantee all involved would be aware of the changes. Councillor Bridgman also stated that it was difficult to come forward with these tariffs without the proposal from the trade. Finally, the Councillor agreed that the calendar-controlled meters should be implemented, as well as the introduction of the cards, although there were several coverage issues in the district.

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Councillor Barnett pointed out that not all businesses took every card and Councillor Pask suggested just mandating acceptance of Visa and MasterCard.

Councillor Marsh pointed out that most places accepted card payments and customers did not always carry cash.

The Committee **RESOLVED** to note the report.

22. **New Section 182 Guidance Under the Licensing Act 2003**

The Committee considered the report (Agenda Item 7) concerning the revised Guidance issued by the Secretary of State in December 2022 under Section 182 of the Licensing Act 2003.

Ms Fraser introduced the report by explaining that The Home Office issued revised s182 guidance on the 20 December 2022. Licensing authorities were required to consider the guidance in relation to the carrying out of their functions under the 2003 Act. Members were asked whether they had any specific queries in regards to the changes.

Councillor Bridgman raised concerns over the terminology in the guidance over existing alcohol licenses in regards to home delivery where paragraph 4.5 should state 'should' and not 'may', which would bring it in line with national guidance. It was seen as imperative that the business informed the Council. Councillor Linden expressed that this would affect several businesses and these business might not be aware of the requirement. It was the expectation that for alcohol deliveries, the provider would request identification as and when necessary.

Councillor Bridgman explained that there had always been an issue over whether it was advisable to apply for the license before planning permission for a premises was granted or the other way around. The Councillor was also unsure how a new development could affect existing buildings and how the planning authority could be expected to enforce the necessary standards. The Chairman provided the example of how a new development, closely located to a busy and loud public house could lead to complaints about the public house, therefore affecting the existing development.

Councillor Pask queried the relevance of Councillor Bridgman's concerns to this meeting and Councillor Bridgman explained that he was preempting any potential issues with the guidance.

Councillor Pask asked whether the Planning Authority was aware of this and Ms Fraser explained they were a statutory consultee.

Councillor Bridgman also raised issues over the formatting of the guidance where it mentioned four points being made but two of the four were combined making it unclear. Ms Fraser commented that this was a matter for the Home Office to resolve.

The Chairman questioned what substantial change meant and Ms Fraser explained that, as was currently the case, each application would be evaluated on its own merits and where there were any queries legal advice would be sought. The guidance was binding on all Licensing Authorities and to depart from the guidance could give rise to an appeal or judicial review. Therefore any reasons for departure needed to be given clearly when decisions were made. The Chairman commented that it was therefore imperative that Members were aware of the guidance and its content.

The Committee **RESOLVED** to note the report.

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23. Forward Plan

The Committee considered the Forward Plan (Agenda Item 8)

The Chairman explained that there would be a special Licensing Committee Meeting on the 20 March 2023.

Councillor Bridgman asked whether they needed to plan for the Hackney Carriage Tariffs to come back to the Committee and Moira Fraser explained that this would be added if the Taxi Trade came back to the Council with a proposal.

Councillor Linden asked when the dates for next year's meetings would be released and Stephen Chard explained that they would be brought to the 16 March Council meeting.

The Committee **RESOLVED** to note the report.

(The meeting commenced at 4.30 pm and closed at 5.29 pm)

CHAIRMAN

Date of Signature