

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

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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 wheel chair 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.

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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
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- 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.

- 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

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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:

