

DRAFT

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

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 13 SEPTEMBER 2010

Councillors Present: Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Adrian Edwards, Roger Hunneman, Tony Linden, Mollie Lock, Gwen Mason (Vice-Chairman), Andrew Rowles, Ieuan Tuck and Quentin Webb

Also Present: Paul Anstey (Environmental Health & Licensing Manager), Alison Church (Solicitor) and Brian Leahy (Senior Licensing Officer), Jessica Broom (Principal Policy Officer).

Apologies for inability to attend the meeting: Councillor Billy Drummond, Councillor Geoff Findlay and Councillor Manohar Gopal

Councillor(s) Absent:

PART I

7. Minutes

The minutes of the meeting of the 30th March 2010 were signed as a true and accurate record of the meeting, subject to the following amendments:

- **Page 6; Item 18 5th paragraph**:- ‘...an increase in fare for 2009/10 **as** they had....’
- **Page 6; Item 18 8th paragraph**: - ‘...be disproportionately bourne...’
- Councillor Linden would be referred to as ‘Chairman’ not ‘Chair’ of this meeting.
- **Page 7; Item 19 3rd paragraph** – That it be noted that Councillor Andrew Rowles had not attended his licensing training as had been stated at the meeting.

The minutes of the special meeting of the 25th May 2010 were signed as a true and accurate record of the meeting.

8. Declarations of Interest

Councillor Gwen Mason stated that she was a member of the West Berkshire Disability Alliance, but it was not considered that this was either a personal or prejudiced interest to any items on the agenda.

9. Hackney Carriage Licensing

Councillor Jeff Beck gave an introduction to the Committee on the item. These were issues that had been brought forward from the meeting of the Committee on 30th March 2010 together with recommendations from the working group which had been set up to address these, were included in the report. It was proposed that there should be a consultation period to consult with all license holders over a 12 week period. Also, that there would be a survey to establish the basic demand for taxi services in West Berkshire.

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Councillor Jeff Beck stated that representations had been received from the Chairman of West Berkshire Hackney and Private Hire Association and the Disability Alliance who wished to address the Committee. A submission had also been received from Dolphin Taxis which would be circulated at the meeting.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion.

A representative of the Trade, Mr Andrew Lutter, Chairman of West Berkshire Hackney and Private Hire Association, requested that the recommendations and discussion by the Committee were heard first in order that he could respond.

The Chairman reinstated standing orders.

Brian Leahy gave an introduction to the report stating that the working group had received and heard submissions from the Trade and produced a number of recommendations as detailed in the report. A number of these recommendations would need to be decided by the Committee 'in principle', as they would have to be ratified following the consultation process.

Councillor Jeff Beck asked the Committee whether they would like to hear the representations from the Trade and Disability Alliance before going through the recommendations of the working group or to hear the recommendations first. Councillor Gwen Mason stated that she would like to hear what the Trade had to say, before looking into the recommendations.

Councillor Quentin Webb asked what the impact would be of not carrying out a demand survey. Paul Anstey stated that there was nothing in law to direct the Council to undertake a survey, however, it was recommended by relevant government departments to do so and the Council was already several years in excess of the recommended time frame. If there was a challenge, to a Council decision which impacted upon the Taxi Trade, the risk of that decision being overturned would be increased due to the length of time since the last survey was carried out.

Councillor Quentin Webb asked whether or not the Council's website could be used for such a survey and Paul Anstey stated that this would not normally be sufficient and that the methodologies being considered would be more thorough. He did say it would be possible to do this but any deficiencies would result in an increased risk to Council decisions. It was the officers' opinion that the survey would provide a sound platform upon which to base decisions and ensure the widest consultation possible.

Councillor Adrian Edwards asked for clarification regarding the difference between 'direction' and 'guidance'. Alison Church stated that two separate government bodies recommended that this survey be carried out but that there was no obligation upon the Council to do so, however, it was recommended.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion.

Mr Andrew Lutter, representing West Berkshire Hackney and Private Hire Association, addressed the Committee. Mr Lutter had raised a number of issues, however he was

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pleased with the Trade Liaison Meetings that had now been scheduled. He urged the Committee not to rush into making decisions as it was important to maintain dialogue with the Trade. He believed that the Liaison Meetings were the way forward to start working these issues out.

Councillor Paul Bryant asked Mr Lutter how he felt about the potential costs of a survey being partially borne by the Trade at a possible £45.00 each. Mr Lutter stated that his colleague would answer this shortly.

Kevin Archibald of CABCO addressed the Committee. Mr Archibald thanked the members of the Committee and the Working Party for the time spent with the Trade on these issues. The last survey was carried out in 2000. He was neither for nor against a further survey being done. He asked, however, if it was decided by the Committee that this should be done, then there should be discussions with the Trade once the findings had been received. He stated that following the last survey many of the results had been ignored, and the Trade had made recommendations which had also not been taken into account. For example the last survey highlighted issues around deregulation, disabled access and licensing for saloon cars.

Mr Archibald quoted from a section of the survey results regarding disability issues, upon which no action had been taken. He stated that he would welcome a survey, although the costings were still to be worked out, but that he would expect the findings to be implemented.

Councillor Gwen Mason stated that she believed that if a survey was carried out, there should also be consultation with the Trade.

Mr Archibald stated that they were experts in the Trade and wanted to protect their businesses and enable them to flourish, their recommendations were for the benefits of all their customers. They wanted the best for their customers, as that would be reflected in improved business.

Councillor Quentin Webb queried whether the costs of a survey should be over a 1,2 or 3 year period. Mr Archibald stated that 3 years would mean the least impact, so they would be in favour of that.

Mick Hutchings, Chairman of the West Berkshire Disability Alliance (WBDA) addressed the Committee. He had been involved in disability access to taxis since 2003/4 and he wanted to be involved in any discussion or Liaison Meeting, if there were issues relevant to the Alliance.

He understood that there had always been a mixed fleet of 50/50 disabled access and other vehicles. WBDA had taken the view that The West Berkshire Taxi (Hackney Carriage) fleet should have at least 50% of its total vehicles fully accessible i.e. wheelchair accessible. WBDA had never supported the view that because a saloon car has a swivel seat attached, it was deemed 'an accessible vehicle'. WBDA's position was that 50% of the West Berkshire taxi fleet should be fully wheelchair accessible and wanted to see vehicles with swivel seats being considered part of the 50% of vehicles not deemed wheelchair accessible.

Also, wheelchairs had become larger and therefore this might need to be taken into account in future recommendations. There were a number of other issues that they would

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like to be taken into consideration and these had been set out in an email. He would also like to see every driver trained in disability issues as well in the future.

Councillor Gwen Mason questioned whether or not there were alternatives to the ramps that were used for wheelchairs. Mr Hutchings said that these had been recommended to the Trade and they could argue the point for other equipment, however they could not recommend anything as these had been deemed fit for purpose.

The Chairman reinstated standing orders.

Brian Leahy went through the report and each of the recommendations made by the working group, so that the Committee could make a decision on each.

The recommendation at 3.1 was that all drivers should be trained to Driving Standards Agency Standard with the exception of the 'Z' module on disability training, which would be carried out in house and had been endorsed by the Disability Alliance and the Trade.

The recommendation at 3.2 was that this standard should be achieved within a 3 year period. This would be subject to the consultation with all licence holders. Councillor Jeff Beck stated that this decision would be ratified at the meeting of the Licensing Committee in December 2010 once the findings of the consultation had been considered.

Councillor Quentin Webb queried whether or not these decisions could be delayed until after the survey had been carried out. Councillor Jeff Beck clarified that the Consultation and the survey would fall within a 12 week period. Brian Leahy said that the survey would not look at training issues.

In response to questions from Councillor Paul Bryant, Brian Leahy stated that the cost of the current 'knowledge test' for new drivers was around £64.00. The Driving Standards Agency test would cost £48.00, so there would be a saving to new drivers. Richard Brown, who had provided a submission to the Committee, was in favour of this new test.

Councillor Tony Linden proposed that the Committee accept this recommendation and go with the new Driving Standards Agency test. Councillor Gwen Mason seconded this and the Committee voted unanimously in favour of accepting recommendations at 3.1 and 3.2 in principle.

The recommendation at 3.3 related to the frequency of vehicle testing. There was no change proposed from what was currently undertaken, but if an age limit of 8 years was imposed on a vehicle, the requirement for the last test would not be needed. The Trade was in agreement with the proposed frequency of testing.

In response to questions from Members of the Committee, Brian Leahy clarified that:

- Other Local Authorities varied on imposing an upper age limit on vehicles. Some were 8 years, some 10 years and some had no limit.
- West Berkshire did not currently have an upper limit, although some members of the Trade had requested that one be imposed.
- Private hire for weddings and funerals were exempt from requiring a license.
- Recommendations in this report related only to Hackney Carriages, with the exception of training.

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Councillor Peter Argyle stated that he regarded the costs for these vehicles to be considerable and if they were in a good condition, why should an age limit be placed on them.

Brian Leahy stated that at 3.6, the recommendation (that was from the Trade) was to place a limit on the age of vehicles; however the suggested third test in 3.3 would be null and void if this was agreed. The current question was regarding the frequency of testing.

Following questioning from Councillor Paul Bryant, Brian Leahy agreed that the word 'Test' would be applied consistently to avoid confusion.

Councillor Tony Linden proposed that the Committee accept the proposed frequency of testing in 3.3 and Councillor Peter Argyle seconded this. The Committee voted unanimously in favour.

The recommendation at 3.4, was that the current 'Halfway Garage or Council' inspection be replaced with an inspection which consisted of a standard MOT. This was a decision that could be made in full at this meeting of the Committee. Brian Leahy explained that the Trade were dissatisfied with the Halfway Garage. This would mean that vehicles would need to have a standard MOT as well as an equivalent test.

In response to a question from Councillor Quentin Webb, Brian Leahy explained that there was a big difference between the inspections, in that the Halfway Test was a much more stringent test.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion

Mr Andrew Lutter informed the Committee that he had put his vehicle in for an MOT and the Halfway Test at the same time and this had cancelled his previous MOT, as it had identified a problem. The Trade supported the MOT testing.

The Chairman reinstated standing orders.

Councillor Tony Linden proposed that the Committee accept the recommendation at 3.4, Councillor Quentin Webb seconded this and the Committee voted unanimously in favour.

Recommendations at 3.4.1 through to 3.4.1.2 were considered together. The options were that the officers carry out the cosmetic test at the Council Offices before the licence was issued. This would entail a financial implication to the service. Alternatively, it would be written into the contract for the MOT test, that this should include the cosmetic part of the test.

In response to questions from Councillors Paul Bryant and Peter Argyle, Brian Leahy and Paul Anstey clarified that it would take around 15 minutes of officer time to administer the cosmetic test and there were just under 200 vehicles to test. The work that the team carried out was based on risk to the Authority and in controlling these risks work would be prioritised accordingly. Therefore any new demands on the team could result in other areas of work being reduced. There might be an option to charge for this work, but it was not put forward in the recommendations. Councillor Jeff Beck stated that carrying out the tests would not be the only demand on officer time, there would be an associated administration that should be taken in to consideration.

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Councillor Roger Hunneman stated that he was in favour of the equivalent test to the standard MOT and that if contracted to a garage, it should be standardised,

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A representative of the Trade, Ashley Vass, stated that his inspection had taken 8 minutes and the he had not been satisfied with it, which is why this recommendation had been put forward. Another representative of the Trade stated his inspection had taken 1hr 20 minutes as it was a very old taxi, so the times varied.

Mr Rodney Nemeth from CABCO clarified for the Committee, that there was an MOT test and then the separate cosmetic test which checked issues such as tearing of the seat covers, windows not working properly, if there is a first aid kit, for example. They were asking that the contractor carried out the equivalent MOT test along with the cosmetic test. A further representative of the Trade stated that they had taken cars to the garage for the cosmetic test and the car had then failed the MOT test and therefore needed to be upgraded.

In response to questioning from Councillor Jeff Beck, the Trade confirmed that they were in favour of the cosmetic test being incorporated with the MOT and not being carried out separately by officers at the council.

The Chairman reinstated standing orders.

Councillor Quentin Webb queried whether or not, it would be up to the Trade on which garage they could go to. Brian Leahy stated this would be a matter for further consideration. The last time they went to tender, Halfway Garage was the only viable option. If there were six companies that were interested, for example, which all met the specification, then there would be a choice of how many and who to go for. They would discuss what would be appropriate with the Trade. Paul Anstey stated that the Trade would probably wish to have some flexibility in who they could go to for the test, and they would see how much trade there would be for example, to take on three garages. In response to a further question from Councillor Quentin Webb, Paul Anstey confirmed that there could be a clause in the contract to dismiss the garage should inspections not be up to standard. Brian Leahy added that there had been a £30 range in costs last time, so they would need to include the trade in decisions. They wanted to have tender documents drawn up by the early part of 2011, so that contracts could be in place by 1st July 2011.

Councillor Roger Hunneman proposed that the recommendations be accepted and Councillor Tony Linden seconded. The Committee voted unanimously to accept the recommendations in 3.4.1 to 3.4.1.2.

The recommendation at 3.5 was a decision which could be made at this meeting of the Committee. This was to re-introduce the measured-mile. A garage carrying out an MOT would also test the meter, i.e. to run it for a mile and therefore determine the correct meter settings, which helped prevent meter tampering. Very few Local Authorities did not currently do this.

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Councillor Quentin Webb proposed this recommendation be approved and Councillor Peter Argyle seconded. The Committee voted unanimously in favour of this proposal.

The recommendation at 3.6 was that all taxis be accepted for 1st licenses, up to the age of 3 years of age.

Councillor Peter Argyle stated that he thought that any vehicle irrespective of age should be allowed to be licensed, if it was in good condition. Councillor Roger Hunneman supported this, saying he saw no reason to outlaw 8 year old vehicles. Councillor Adrian Edwards said that vehicles were generally more safe now than they were ten years ago, and this should be taken into account. Councillor Paul Bryant agreed - there was no evidence presented that older vehicles should not be allowed a license.

Brian Leahy clarified that at the present time, they would license any vehicle; this recommendation was put forward in response to a suggestion from some of the Trade who wanted an age policy to be implemented. He pointed to appendix B for the rationale for this suggestion.

In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman suspended standing orders to allow members of the trade to participate in the discussion

Representatives from the Trade made the following points to the Committee:

- That many taxis were bought second hand, as they were so expensive;
- Any licence now had to be wheelchair accessible;
- The restriction this recommendation would place on them would be unreasonable;
- They would expect to spend more money maintaining a vehicle than they would on buying one;
- If a vehicle was fit for purpose, it should be licensable;
- One member stated he had a 10 year old car and if this was brought in, it would him redundant;
- They felt the 8 year age limit was out of the question, but the 3-4 years, or even 5 year age for a new vehicle would be reasonable and that 5 years would be preferable.

The Chairman reinstated standing orders

Brian Leahy re-stated the decision to be made for the Committee. Currently vehicles were required to be fit for purpose and in a good mechanical state. When the new contract would be in place, they would be required to be in a good condition. In London there were 15 year old vehicles still in operation. Brian Leahy clarified that the recommendation had been put forward in response to a request from the Trade, but that this was in opposition to the views expressed at this Committee meeting by the Trade representatives.

Councillor Jeff Beck proposed that the Committee should not accept the recommendation and that 3.6 should be rejected. The Committee agreed unanimously.

Councillor Jeff Beck proposed that the Committee should agree new vehicles should be able to obtain a licence up to 5 years of age for new licenses, but with no upper age limit. Councillor Andrew Rowles seconded this and the Committee voted in favour of the revised proposal.

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The recommendation at 3.7 made the current condition more formal. All wheelchair accessible vehicles would only be accepted if any conversion was documented. A full specification document would be put together and only those complying with the Disabled Persons Transport Advisory Committee (DPTAC) standard would be accepted.

Councillor Tony Linden proposed that the Committee accept this recommendation and Councillor Adrian Edwards seconded this. The Committee voted unanimously in favour.

The proposal at 3.8 concerned the Consultation which would be undertaken in a 12 week period. It was the officers' recommendation that this be carried out, making use of the Council's *Consultation Finder* on the website.

Councillor Paul Bryant proposed that the Committee accept this recommendation and Councillor Adrian Edwards seconded this. The Committee voted unanimously in favour.

The proposal at 3.9 concerned the demand survey. This had not been carried out since 2000 and increased the risk of Council decisions being challenged successfully. As part of the survey, assessors would look at taxis use of ranks across the District as well as interviewing the public, The Disability Alliance and the Trade.

Councillor Jeff Beck clarified that the consultation would take a full 12 week period and the demand survey would take place during this time. The results of both would come together to the Committee meeting in December, and it was noted that the discussions would be carried out with the Trade, once results were available and before recommendations were made.

Councillor Paul Bryant questioned whether or not the survey was being carried out because there was useful information that could be found out, or simply for protection against any legal challenge.

Councillor Jeff Beck stated that this was an exercise to find out what the public wanted from a taxi service in West Berkshire, the protection element was a secondary outcome. If the Trade also had an input in the process, this could produce some real benefits for West Berkshire residents. Councillor Roger Hunneman agreed with this, stating that there had been some good ideas put forward and it would be interesting to see if there was real demand for schemes such as Group Hire (as suggested in Mr Castle's submission).

Councillor Mollie Lock requested and was given confirmation that this survey would apply to the whole of West Berkshire District, and not just the urban areas of the District.

Councillor Gwen Mason proposed that this recommendation be accepted and the costs be recovered from the Trade over a 3 year period. Councillor Tony Linden seconded this. The Committee voted overall in favour of this and the consensus was to proceed with the survey.

Councillor Jeff Beck thanked the Trade and the Disability Alliance representatives for their input at the meeting, and informed them that Disability Awareness Training was on the last Wednesday of each month, or could be arranged on other days. There had been two Seminars in August, which has been very positive.

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Resolved that:

- 1) Recommendations of the working group detailed at 3.1 and 3.2 be accepted in principle.
- 2) Recommendations of the working group detailed at 3.3 be accepted in principle.
- 3) Recommendations of the working group detailed at 3.4 be accepted.
- 4) Recommendations of the working group detailed at 3.4.1 to 3.4.1.2 be accepted
- 5) Recommendations of the working group detailed at 3.5 be accepted.
- 6) Recommendations of the working group detailed at 3.6 be rejected.
- 7) That new vehicles applying for a first licence be accepted up to the age of 5 years, and that there be no upper age limit on a vehicle.
- 8) Recommendations of the working group detailed at 3.7 be accepted in principle.
- 9) Recommendations of the working group detailed at 3.8 be accepted.
- 10) Recommendations of the working group detailed at 3.9 be accepted and the costs be recovered from the Trade over a 3 year period.

10. Licensing Act 2003

Brian Leahy gave an overview of amendments made to the Council's Licensing Policy. The changes that had been made had been highlighted in red. These amendments were minor and made to simply update the existing policy. Comments had been received from the Musicians Union, which were positive and no other comments had been received.

Brian Leahy requested that the Committee approve the changes made and that the Chairman and Vice-Chairman might approve the policy on the Committee's behalf if there were further minor changes. If the Policy was signed off at the December 2010 Meeting, it would miss the Council meeting which would sign off the Policy. Brian Leahy stated that he did not anticipate any further amendments.

Councillor Quentin Webb queried whether or not the Policy would need to be changed again within 3 years, especially with the consultation on the Public Nuisance Act. Brian Leahy stated that very little would actually affect the Policy itself.

Councillor Adrian Edwards stated that he had read the Policy very carefully and that in the last three years there has been an increase in anti-social behaviour, especially on a Friday and Saturday night, most of which was alcohol fuelled. He felt that a stronger stance on clamping down on pubs and clubs should be enforced and this should be reflected in the Policy. There were two pubs in particular which were open until 2am in Newbury town centre, that he felt were a problem.

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Brian Leahy responded that this was not an enforcement Policy. Members had the right to curtail the hours of any premises. He sat on the anti-social behaviour Action Group and Newbury actually had one of the lowest levels of alcohol-related crime in the country. Members might soon be able to put a levy on pubs for town cleaning, if the new Act came into effect. Members could also call for a review of a license. The Policy was meant to be generic and neutral and one of the top Barristers in the Country had endorsed the West Berkshire Policy. It was possible to put a terminal hour in, but this would be challenged and the Council would then be called to review the Policy. There were however, issues with comments from the Neighbourhood Action Groups not being relayed to the Licensing Team and those with the power to make changes to licenses. So far only a handful of reviews had taken place.

Paul Anstey added that the Council could observe and control licenses however the burden was on the citizen to stand up to the local pub. This was an issue as it was hard to find tangible evidence or data to use in such a review – and this was needed from the Police and residents. However, the Council's powers might be extended in the future. There were other measures that were needed to tackle these issues as well, such as education and enforcement. The Policy was necessarily non-committal and generic. Paul Anstey stated that Licensing Officers made visits the next working day, if any reports did come into them, but there was a need to be better connected with the Neighbourhood Action Group process.

Brian Leahy stated that if new proposals were agreed by Government, the Licensing Officers would have the power to call for a review, but at the current time, that was not the case. This was a social problem that officers were very aware of. It was possible that a more dictatorial policy could be produced, but it would certainly be challenged.

In response to questions from Councillor Roger Hunneman, Brian Leahy stated that a Ward Member could request a review and this had been included in the training as well as the newsletters. The point regarding license holders serving customers who were already clearly drunk was unenforceable. Warnings were issued to landlords and a lot of time was committed to street work in West Berkshire. An AGM was held each year, where the Members received reports on different Trades.

Councillor Hunneman requested that 9.1 stated that the Council would 'consider shorter licensing hours', as well as longer ones.

Councillor Paul Bryant stated that he often went litter picking in Shaw and had found used contraceptives and other items and it was not only a problem with pubs in the area. He requested that the comment regarding Newbury as a low risk area, was deleted from the Policy.

Councillor Mollie Lock pointed out the problems were not only in the urban areas, but also in those more rural ones, such as Mortimer, residents who had been drinking in Reading, would return on the late buses.

Councillor Tony Linden proposed that the Policy be accepted and Councillor Jeff Beck seconded this. Members voted in favour of accepting the changes to the Policy, with the exception of Councillor Adrian Edwards who abstained.

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Resolved that:

- 1) The Council's Licensing Policy for the three year period commencing January 2011 be approved subject to the deletion of Newbury as a low risk area and the addition of 'considering shorter licensing hours' at 9.1.**
- 2) A notice be put into the Members' Bulletin reminding Members that they are able to call for a review of a premise's license.**

(The meeting commenced at 6.30 pm and closed at 9.00 pm)

CHAIRMAN

Date of Signature