

NORTH HERTFORDSHIRE DISTRICT COUNCIL

LICENSING AND APPEALS COMMITTEE

**MEETING HELD IN THE FOUNDATION HOUSE, ICKNIELD WAY, LETCHWORTH
GARDEN CITY ON MONDAY, 12TH MARCH, 2018 AT 7.30 PM**

MINUTES

Present: *Councillors Councillor Michael Muir (Chairman), Ian Albert, David Barnard, Elizabeth Dennis, Faye Frost, Jean Green, Jim McNally and Mike Rice.*

In Attendance: *Steve Cobb (Licensing Manager), Andy Godman (Head of Housing and Public Protection), James Ellis (Legal Advisor) and Ian Gourlay (Committee and Member Services Manager)*

Also Present: *Councillor Bernard Lovewell (Executive Member for Housing and Environmental Health), Hannah Sweetman (Licensing Officer) and Milly Shiells (Licensing Officer).
1 member of the public.*

11 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Simon Harwood and Gerald Morris.

12 MINUTES - 28 NOVEMBER 2017

RESOLVED: That the Minutes of the Meeting of the Committee held on 28 November 2017 be approved as a true record of the proceedings and be signed by the Chairman.

13 NOTIFICATION OF OTHER BUSINESS

There was no notification of other business.

14 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that, in line with the Code of Conduct, any Declarations of Interest should be declared immediately prior to the item in question.

15 PUBLIC PARTICIPATION

There was no public participation.

16 CONSIDERATION OF AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

The Licensing Manager presented a report of the Head of Housing and Public Protection summarising the responses to the public consultation regarding the Council's proposed Hackney Carriage and Private Hire Licensing Policy, and requesting the Committee to make a recommendation to the Executive Member for Housing and Environmental Health regarding the Policy. The following appendices were submitted with the report:

Appendix A – Hackney Carriage and Private Hire Licensing Policy published for public consultation;
Appendix B – Schedule of consultation responses; and
Appendix C – Proposed Hackney Carriage and Private Hire Licensing Policy (incorporating the proposed amendments).

The Licensing Manager advised that hackney carriages and private hire vehicles had a key role to play in society as they were able to provide safe, secure and comfortable transport whether in the street or from door-to-door. This was particularly important to vulnerable persons who may have mobility issues, physical or mental incapacity, or in areas where there was little or no public transport. Journeys could vary from airport drop off or collections, to late-night economy related transport, to shopping trips for the elderly, to vital health care trips such as doctors or hospital appointments, to trips to wellbeing/social interaction clubs or work-related journeys.

The Licensing Manager stated that users of hackney carriages and private hire vehicles rightly had an expectation that a robust licensing regime existed so that vehicles were safe and drivers were trustworthy persons who would not exploit the opportunity of transporting vulnerable and/or lone passengers. On the whole, the hackney carriage and private hire provision in North Hertfordshire was of a high standard; higher than average standards were expected from licence holders and, in return, the Council set the fare tariff at a higher than average level.

The Licensing Manager explained that the proposed policy amendments sought to build on the successful existing policy, but introduced a number of enhancements to further secure the licensing objectives set out on page 2 of the policy, in particular public safety. As minor amendments to existing policies fell within the remit of the relevant Executive Member, in this case the Executive Member for Housing and Environmental Health, whilst significant amendments are reserved for Cabinet. Sections 8.58–8.61 of the report outlined the definition of minor amendments and, at the end of the Committee's debate, Members would need to consider whether the proposed amendments fell within the definition of minor or significant to determine the appropriate decision-maker.

The Licensing Manager commented that he had attached the full consultation version of the policy, including all the proposed options, as Appendix A to the report and the final proposed policy, with the suggested options, as Appendix C to the report. Despite sending approximately 300 e-mails to existing licence holders, creating a separate consultation page on the Council's website and promoting the consultation on social media, only 6 responses were received and these had been included as Appendix B to the report. It would not be unreasonable to interpret this poor response as ambivalence on the part of the trade, however, he was sure that there would be a belated response once the impact of the changes became apparent.

The Licensing Manager advised that the policy tried to balance the impact of the proposed changes between the need to protect the public against ensuring that the financial impact on the trade was proportionate to the intended outcome. One of the major problems faced was the lack of understanding amongst the public of the difference between a hackney carriage and private hire vehicle. For the avoidance of any doubt, hackney carriages could wait on official hackney carriage ranks, anywhere where the public could lawfully park or be flagged down in the street; in other words, the booking took place at the time of entry into the vehicle. Private hire vehicles had to be pre-booked through a private hire operator and then despatched to the hirer; any private hire vehicle not pre-booked was likely to invalidate the insurance for the journey.

The Licensing Manager stated that a number of livery and signage options to assist with this distinction had been considered, such as vehicle colour and council logos, however, it had been determined that this would result in a disproportionate cost to the trade. Instead, the policy proposed that private hire vehicles would be required to display door signage stating that they must be pre-booked and be prohibited from displaying illuminated roof signs which all hackney carriages must display. It was believed that this provided sufficient distinction between the two vehicle types, which could also be further publicised on the Council's website.

Monday, 12th March, 2018

The Licensing Manager explained that, with the advancement of vehicle manufacturing, the current policy of an upper age limit for hackney carriages could be deemed to be disproportionate and arbitrary. It was therefore proposed that the upper age limit be removed, subject to the vehicle being able to pass the Council's stringent vehicle testing requirements. Additionally, with the Council keen to promote a cleaner and greener environment, it was proposed to offer a discounted licence fee for electric or hybrid vehicles until such time as the Government introduced legislation in this area.

The Licensing Manager commented that the Equality Act 2010 introduced a number of welcome protections for society, including a duty for local licensing authorities to ensure that sufficient wheelchair accessible transport provision was available. Currently, the Council restricted all new applicants into the hackney carriage trade to wheelchair accessible vehicles, but allowed existing licence holders to continue to replace non-wheelchair accessible vehicles on a like-for-like basis. It was felt that this would be unduly restrictive to new entrants, and therefore the policy now proposed that the requirement for wheelchair accessible vehicles was only enforced when the number of wheelchair accessible vehicles fell below 10% of the total hackney carriage provision (currently operating at approximately 8% in North Hertfordshire). It was believed that this achieved a balance between providing adequate wheelchair accessible vehicles and allowing new entrants into the trade without disproportionate barriers.

The Licensing Manager advised that the most frequent complaints received were allegations of overcharging, which were often inconclusive, as it was one person's word against another. Often the complainant did not have the driver's badge number, the vehicle registration or licence plate number of the vehicle making it difficult to establish who the allegation was against. These complaints frequently related to Tariff 2 (time and a half) being incorrectly applied, as tariffs were manually selected by the driver. With the advancement in taximeter technology, taximeters now had the ability to automatically set the relevant tariff based on the date and time (these were called calendar meters), plus had attachable printers that generated a receipt for each journey detailing vehicle details, date, time, tariff, distance and fare charged. It was felt appropriate to introduce a mandatory requirement that each hackney carriage had a calendar meter with printer and that a printed receipt was issued for every journey. It was realised that this would have a financial impact on the licence holders, and therefore it was proposed to make this mandatory from 1 April 2021.

The Licensing Manager stated that the Council needed to ensure that the drivers of hackney carriage were safe drivers with good driving records, were mentally and physically fit, were honest and were persons that would not take advantage of their position of trust to abuse, assault, defraud or otherwise harm members of the public. Appendix B of the proposed policy contained the Council's definition of the legal 'fit and proper person' test for transparency. It further detailed convictions that would preclude applicants from obtaining a licence for the most serious of offences or for multiple offences where their combined effect precluded them. Currently, the policy relied on existing licence holders to notify the Council of any caution or conviction they received, which had the potential to put the public at risk if the Council was not informed and only found out at the next licence renewal that could be up to 3 years later. It was now proposed that licence holders registered with the new online DBS checking facility, whereby the Council could periodically check that each licensed driver's DBS had not changed i.e. no cautions or convictions had been obtained.

The Licensing Manager referred to a number of other minor changes proposed and all proposals were highlighted in red text in the amended policy set out at Appendix C to the report.

In response to a number of Members' questions and queries, the Licensing Manager responded as follows:

- the cost of a taximeter was in the region of £400-£600;
- in Paragraph 2.7.2 of the proposed policy, the minimum percentage of wheelchair accessible vehicles should be 10% and not 15% as stated;

Monday, 12th March, 2018

- the definition in the policy of a “fit and proper person” had been formulated by the country’s leading lawyer on taxi licensing and was a nationally accepted definition, recognised by the Courts;
- drivers were able to obtain an MOT certificate for their vehicles at any registered MOT station, but would also be subject to the annual NHDC Licensing Team Compliance Test;
- the Licensing Manager undertook to respond to the consultee who had raised the issue of assistance dog owners and their dogs being refused entry into taxis, in order to explain the Council’s approach in dealing with such issues; and
- in terms of the number of consecutive hours a driver could operate, whilst employed drivers were covered by the European Union Working Time Directive, self-employed drivers were not. For public safety reasons, the Licensing Manager therefore undertook to remind all drivers not to continue operating when tired.

In supporting the proposed amended policy, the Committee recommended the following further minor amendments:

- the driver DBS check should be an annual, rather than three-yearly, check;
- clarification in the policy that, for the first seven years of a licensed vehicle’s life, NHDC Licensing Team Compliance checks were carried out on an annual basis, with six-monthly checks thereafter; and
- in respect of Paragraph 3.10.2 of the policy regarding safeguarding training, it was agreed that the Driver Knowledge Test should be enhanced by further questions regarding safeguarding, in lieu of the introduction of a mandatory test for all drivers, as currently being piloted by East Hertfordshire District Council.

RESOLVED:

- (1) That the results of the public consultation be noted, and the proposed policy amendments be supported;
- (2) That it be determined that the proposed amendments are minor, in so far as they do not amend the licensing principles or main focus of the existing policy; and
- (3) That the Executive Member for Housing and Environmental Health be recommended to approve the Hackney Carriage and Private Hire Licensing Policy amendments set out in Appendix C to the report, and the further minor amendments made by the Committee, under Delegated Powers.

REASON FOR DECISION: To ensure that the Council has in place a robust and up to date Hackney Carriage and Private Hire Licensing Policy.

The meeting closed at 8.23 pm

Chairman