

**Minutes of a Meeting of the
Licensing Committee of Adur District Council
Queen Elizabeth II Room, Shoreham Centre
16 January 2017**

*Councillor Brian Coomber (Chairman)
Councillor David Simmons (Vice-Chairman)

Councillor James Butcher	Councillor Peter Metcalfe
Councillor Stephen Chipp	*Councillor David Lambourne
*Councillor Emma Evans	Councillor Lyn Philips
Councillor Robin Monk	Councillor Ben Stride

* Absent

LC/16-17/11 Declarations of Interest

There were no declaration of interests

LC/16-17/12 Confirmation of Minutes

Resolved: that the minutes of the Licensing Committee meeting of held on 7 November 2016 be confirmed as the correct record

LC/16-17/13 Questions and Statements by the Public

The chairman invited members of the public to ask questions or make statements about any matter for which the Council had a responsibility or which affected the District.

Mr Andy Beale from Car Cabs asked the following questions

‘So far as the draft Handbook now requiring a Private Hire Operator to have an address within the district of Adur, can the Licensing Officer provide the Committee with any statistics or other evidence to show that there has been any inability to serve the demands both residential and commercial for Private Hire Vehicles within the District of Adur. The Committee is aware that Car Cabs Ltd has been a Licensed Private Hire Operator for more than 20 years serving both residents and businesses with Private Hire vehicles in Adur but having always been based at 19 Victoria Road, Portslade. Bearing in mind the operation by Car Cabs Ltd serving the residents and businesses of Adur for more than 20 years, we would request clarification as to why the draft Handbook should not be on the basis of such an operator being within the District of Adur or within three miles of its District and which may be more appropriate by way of a condition to the License rather than in the Handbook.’

The Licensing Officer told members that there was no evidence or statistics to show that there was an inability to serve the demands both residential and commercial for Private Hire Vehicles within the District of Adur. According to records Car Cabs had operated from Victoria Road Brighton, but until recently it had operated a satellite office from Shoreham Airport Terminal. The reason the Handbook stated that operators should be based in the

District was that the Council did not have the authority to licence outside of the area and that officers would have no powers to force an operator out of the area to provide records etc.

The Solicitor told members of legislation and case law which was clear. Operators licensed within an authority may only operate from an address within that authority.

Why should penalty points be imposed upon a Licensed Private Hire Operator without proper investigation of an alleged offence or breach of Licensing requirement and that there was no right to appeal any decision.

Members were told that if proposals were accepted, points would not be placed on a licence without investigation and that if penalty points reached a defined threshold then councillors would consider the matter as there was no provision for automatic sanction. Appeals could be heard by a magistrates court should the Licensing Committee decide to impose sanctions.

Mr Sean Ridley asked the following questions

Paragraph 1.1 and 3.1 referenced wide and extensive consultation, best practice guidance stated that consultation should not only be with the trade but also groups likely to be the trade's customers including disability groups, women's groups, chambers of commerce and groups with wider transport issues etc. Which groups were approached, when were they approached by the council as part of the consultation and where were their representations.

The Licensing Officer explained that all members of the public were able to make a representation on the handbook which was advertised on the council's website, the area's access and mobility group had been contacted and had responded to the consultation. They had made comments not relevant to the handbook which officers were following up on.

The local taxi trade was being squeezed at every level including the emergence of Uber in the Adur district without an operator's licence, undercutting the local taxi trade using vehicles licenced more cheaply including London Mini Cabs. The Department for Trade and Industry gave advice that licensing requirements that were unduly stringent will tend unreasonably to restrict the supply of taxi and private hire vehicles by putting up the cost of the operation or otherwise restricting entry to the trade. Local Authorities should recognise that too restrictive an approach could work against the public interest and have safety implications. Unite's representation was that the handbook was full of errors, omissions and impracticalities of enforcement which could open the council up to legal challenge. How can Committee members have any chance of properly or lawfully considering the 'Unite the union's objections to the document in the absence of any answers to questions raised as part of the consultation?

The Licensing Officer told members that the proposal was to go through the handbook at the meeting with consideration of representations made. Members of the Committee would be able to ask those from the trade present to clarify points made as part of the consultation. It was considered that it was the best way to scrutinise the document in a

detailed manner.

Mr Stephen Fleming asked the following questions

Mr Fleming drew the committee's attention to paragraph 3.3 which stated that the Licensing Authority's primary function was the protection of the public. He told members that taxi's were a business and that imposing a cost on the taxi trade could have financial implications on drivers creating a situation where 'corners were cut'. He asked the committee to consider that point during its deliberations

The Licensing Officer stated that it was not the intention to pass on exorbitant costs to the drivers.

Mr Fleming drew the Committee's attention to appendix A 2.3a he asked members to consider that the taxi test was the core test as to whether a vehicle was suitable to be a taxi or not. Mr Flemming purported that the rule relating to age of new taxis was arbitrary and a random number and the suitability of a car should be based on it's condition. He asked members to consider that given the taxi test is the core test and that any vehicle to be licenced in the district should pass a taxi test and nothing more.

Mr Fleming was told that this matter would be considered as part of agenda item 5.

Mr Peter Murrell asked the following questions

Members were referred to paragraph 4.10 of the proposed handbook relating to roof lights. He asked if prescribing a Private Hire roof sign of hackney carriage size and proportion would confuse the public and how it would legally comply with legislative requirements.

The Licensing Officer explained that the proposed roof lights for Hackney Carriages would be different to the ones used by Private Hire vehicles

Mr Murrell asked if the points system were to be introduced would the absence of an appeal be in contravention with the Human Rights of the drivers.

The Licensing Officer told members that the proposals would not mean that once a driver had reached the maximum penalty points there would be an automatic sanction. In these instances the matter would be referred to Committee for decision where both sides could be heard and appeal could be sought from the magistrates court should a sanction be imposed by the committee.

Mr Andrew Peters asked the following questions

Mr Peters asked how the consultation concerning the handbook had taken place?

The Licensing Officer referred Mr Peters to his earlier answer but did add that the consultation had been based upon an original committee decision in July 2014 which had included representations from the trade. A draft handbook had been produced as a result of this meeting and 12 (extended to 14) weeks of public consultation had followed. Two meetings were then held with the trade to help them put written representation to the

committee. Responding to the Chairman the Licensing Officer confirmed that the handbook was a live document and would be reviewed regularly.

Mr Peters repeated claims that one meeting had been held and that this meeting had only covered one third of the handbook and asked if this was considered proper.

The Licensing Officer stated that there had been two meetings, the first had been disruptive but the second had been more productive and had covered different parts of the handbook. He emphasised that the meetings had been organised to assist drivers in making representations to the committee and was not a forum for verbal representations to be considered. They were to assist anyone wishing to make a representation master the mechanics of making a representation.

Mr Tony Breslin asked the following questions

He told the committee that the operator 'car cabs' had received no notification of the meeting on the 9 July but had been made aware of the subsequent meeting via one of their drivers. Mr Breslin asked if sufficient consultation time had been given with the trade.

The Licensing Officer stated that he felt the process had worked quite well.

Mr Breslin told the Committee that the objections made by his business had been missing from the papers and asked if members had had sufficient time to consider an updated paper which had been circulated the Thursday before the meeting.

The Legal Advisor to the committee told Mr Breslin that members had had sufficient time to consider the six missing paragraphs.

LC/16-17/14 Items Raised Under Urgency Provisions

There were no items.

LC/16-17/15 Hackney Carriage and Private Hire Licensing Handbook

Before the Committee was a report by the Director for Communities, copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these Minutes as Item 5.

Members were invited to consider adopting the draft Hackney Carriage & Private Hire Licensing Handbook following a wide consultation exercise. Members were requested to consider the document and the representations received and adopt the document including any amendments considered required.

The Licensing Officer summarised the report and its background for the committee. Members were told that matters relating to the use of CCTV would need to be deferred whilst a privacy impact statement was compiled.

The Committee proceeded to discuss representations regarding the handbook one by one and members of the trade that were present were invited to clarify representations where relevant.

Resolved:

- i) That the parts in the handbook relating to CCTV be brought back to the Committee following the completion of the relevant impact assessment.
- ii) That officers be delegated to amend typographical errors within the handbook
- ii) That the Adur Hackney Carriage & Private Hire Handbook be approved with the following amendments

Section 3

- 3.3 - that the following wording be added 'it is recognised that a duty of care is owed by the council to all licensed drivers';

Section 4

- 4.9 - that the council will accept the first garage compliance inspection report for a new vehicle from where the vehicle is purchased;
- 4.21 - reference to VOSA replaced by reference to DVSA

Section 5

- 5.17 - reference to the location of disability awareness/CSE training within this paragraph to be made clearer by officers;

Section 6

- 6.18 - amended so that hackney carriages are exempt from private hire conditions concerning colour and roof signage when acting as a private hire vehicle

Appendix A

- 1.1(d) - clause removed;
- 2.3 - paragraph removed;
- 2.5 - paragraph removed;
- 2.6 - that the paragraph be removed and that further consultation be undertaken with the trade on this issue;
- 2.8 - Officers are given discretion to determine if the level of tint on passenger windows restricts the view into the passenger compartment of the vehicle.

- 3.1 - this paragraph be left as it is, the committee notes however that a further report be brought back before members on the use of rear loading vehicles for wheelchair access;
- 4.1 - the committee clarifies that current signs should be updated on a rolling basis when vehicles are changed;
- 5.2 - that the paragraph be removed;

Appendix B

- 3.1 - that clarification be added that notification take place during office hours;
- 4.2 - that the typographical error in this paragraph be amended;
- 6.1 - as with Appendix A, para 2.8;
- 13.1 - replace 'whether' with 'when' remove 'or personal use';

Appendix E

- 1.1 d) paragraph removed;
- 1.7 that the paragraph be removed and that further consultation be undertaken with the trade on this issue;
- 1.9 - that the council will accept the first garage inspection compliance report for a new vehicle from where the vehicle is purchased;

Appendix F

- 3.1 - that clarification be added that notification take place during office hours;
- 6.1 - Officers are given discretion to determine if the level of tint on passenger windows restricts the view into the passenger compartment of the vehicle;
- 13.1 - That non-illuminated be changed to illuminated;
- 13.3 b) - That the setting of the size of the PH roof light be delegated to the Director for Communities in consultation with the Chairman;
- 13.3 f) - That the setting of the words displayed on the roof sign be delegated to Director for Communities in consultation with the Chair of the Committee;
- 15.1 - Certificate of Compliance title at 15 and Certificate and compliance to be changed throughout the paragraph to read Garage certificate or test;
- 15.2 - That the council will accept the first garage inspection compliance report for a new vehicle from where the vehicle is purchased;

Appendix G

- 4.2 - Change 'the occupants' to 'all occupants';

Appendix I

- 1.3 - remove the 'near' from the last sentence;

Appendix J

- 4 - The Committee was unclear on the exact meaning of the phrase 'commence his journey' and delegated to Officers to insert a phrase that fully illustrated the point at which the driver could set the meter into operation;
- 5 - That the words 'clip or' be added before 'lanyard provided by the council';
- 6 - That the word 'Worthing' be replaced by the word 'Adur';

Appendix K

- 6.9 That the words 'total number of vehicles specified in their licence';

Appendix M

- Reference to the penalty points system be removed and the officers bring a scoping report on the issue of enforcement action against a licence

LC/16-17/16 Constitutional Provisions relating to the Council's' Licensing Function.

Before the Committee was a report by the Director for Communities, copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these Minutes as Item 6.

The Chairman announced that the item would be deferred until the next meeting of the committee.

Resolved: that the item be deferred until the march meeting

The Chairman closed the meeting at 10.58pm, it having commenced at 7.00pm.

Chairman