

Minutes of a meeting of the
Worthing Licensing & Control Committee A
13 February 2019
at 6.30 pm

Present:

Councillor Paul High (Chairman)
Councillor Sean McDonald (Vice-Chairman)

Councillor Mike Barrett	Councillor Louise Murphy
Councillor Karen Harman	Councillor Jane Sim
Councillor Lionel Harman	Councillor Paul Westover
Councillor Joshua High	Councillor Mark Withers
Councillor Charles James	Councillor Tom Wye
Councillor Richard Mulholland	

Absent:

Councillors: Keith Bickers and Bob Smytherman

LCCA/18-19/12 Declarations of Interest / Substitute Members

Councillors Paul High, and Sean McDonald declared an interest in item 5 as members of West Sussex County Council

LCCA/18-19/13 Confirmation of Minutes

Resolved: that the minutes of the Licensing and Control Committee A meeting held on 12 November 2018 be approved.

LCCA/18-19/14 Public Question Time

The Chairman announced that two members of the public had pre-submitted written questions

A member of the public asked the following question: At the trade forum 2017 Arrow private hire also call (Arrows taxis) very confusing for the public , wanted 20 rear loaders on the taxi rank to rent out to drivers at £150 a week ?, that's £3000 a week for Arrow private hire, private hire are nothing to do with taxi ranks and in the trade meeting in October 2017 the taxi trade association members voted against rear loading wheelchair vehicles for safer side loading wheelchair accessible vehicles on the taxi ranks. I asked the council license committees A, why the licensing office keep pushing the agenda for unsafe rear loading wheelchair accessible vehicles on the taxi ranks, when they have clearly identified that out of 277 cars 68 are hackney taxis 14 of which are disabled vehicles, compared to only 3 disabled vehicles out of 209 cars on private hire. I had been assured licensing Committee on 12th December in 2018 , that it would be unlawful for the license office to put forward any agenda taxi trade did not want, so now ask for the second time same question the question to Council License committee A, why the license office are pushing this agenda again to have rear loaders on the taxi ranks when the taxi trade not want them and are in favour of the safer side loading wheelchair vehicles for the public. The licensing office have clearly identified that there is only 3

wheelchair vehicles out of 209 cars in private hire sector to that of 14 wheelchair vehicles out of 68 at taxis on the taxi ranks, most if not all are available to the public day and especially at night time at the weekend.

What consultation took place with whom and what third parties and why the taxi trade was not consulted? Members were told that at a recent trade meeting a discussion took place regarding rear loading vehicles. An opinion on whether the trade would like the opportunity to have rear loading vehicles was sought from those present as to 'how many would not like rear loading vehicles' this was carried out by a show of hands. Not every member of the trade was present at the meeting and it was not a recognisable or binding vote. If a company applied to the Local Authority to licence a number of wheelchair accessible taxis and the vehicles are compliant with the conditions of licence a vehicle licence will be issued. Hackney Carriages can be operated by a licensed private hire operator as long as the operator, the driver and vehicle are licensed by the same authority. The owner of the HC vehicle does not have to be a licensed driver, this practise is not uncommon as owners can have more than one vehicle. The numbers of licensed vehicles is fluid but there are currently: 188 PH vehicles - 3 are wheelchair accessible; 70 Hackney Carriages - 14 are wheelchair accessible. The public & interested parties have raised the lack of wheelchair accessible vehicles with officers over the last few months and the issue has again been highlighted during the current hackney carriage & private hire review consultation. That is why officers have raised the issue with the trade at meetings and at this hearing. Officers are not pushing an agenda. Officers have simply been seeking alternative views regarding an issue that is consistently being brought to our attention and is now highlighted by the responses to the review consultation. Details of consultees is listed within the report page 117 - 119 and the representations in appendices C, D and E

A Member of the Public asked the following question: Could the committee please explain why we as taxi drivers have been told to have installed CCTV systems that can't be switched off when the vehicle is being used for private use. And that the CCTV has to be a constant & continuous recording system? This clearly contradicts the Information Commissioners Office (ICO), which states "Taxi drivers, like all of us, have a right to privacy. And that right is enshrined in law. The law states that the processing of personal data should be necessary for its purpose and proportionate. So where a taxi is being used by a driver for their own private or domestic purpose, continuous recording is likely to be unlawful, unfair and excessive under data protection legislation and in breach of Article 8 of the Human Rights Act 1998." if the council are aware of this law, why are they trying to implement something that is unlawful? And if they are unaware of the law why are they? The meeting was told that the current conditions do not mention an On Off switch and officers are updating the CCTV conditions in line with the ICO guidance and GDPR. The Officers have been in discussion with the ICO and the Senior Information Governance Officer. The Department for Transport has just launched a consultation on among other things mandatory CCTV in taxis at a national level. The requirements are fluid but Officers have drafted three new conditions that deals with the issue of continuous CCTV recording which members would be asked to consider.

A member of the public asked the following question: When I had my windows tinted at considerable cost, I, as I'm sure other taxi drivers did, went through the correct channels to do this & had it approved & have had my taxi licensed several times since. Now we are being told that this is not going to be permitted. This seems unfair to the taxi driver & to a section of society, as I point out below and as per usual going to cost the taxi driver financially. On a personal note, the reason I had my windows tinted is because my

vehicle is a WAV & 95% of my business is transporting disabled, special needs & wheelchair using passengers. These passengers have either physical, mental or emotional issues, or a combination of these. I have been transporting adults & children with these issues for many years now and have & have had many contracts, including, West Sussex County Council, Social Services, SCOPE & various others. The tinted windows afford them an adequate degree of privacy against "prying eyes" who like to stare at people who are different from them, be it intentionally or unintentionally. It also gives my passengers an actual sense of privacy & security they would not otherwise feel. They are able to feel safe & secure travelling in my taxi & can do so with dignity, where as before many would not venture out due to their insecurities & issues. The degree of tint I believe you are permitting would give nowhere near the privacy my passengers need & I would risk losing many of these passengers because of this.....not only affecting my trade but discriminating against the most vulnerable in society by further reducing their transport options (which I believe the council is trying to improve).I would ask the council to strongly reconsider. The meeting was told that this is an issue regarding the safety of the passengers and there is no evidence to show that it is harmful to business. A tint measurement is being sought and is on page 44 of the report. Existing vehicle licences will not be affected and only new vehicles will be subject to the condition leading to a gradual phase out of heavily tinted glass as vehicles are naturally replaced and so causing as little financial burden on the trade as possible.

The chairman opened public questions up to other attendees in the gallery

A member of the Public detailed a previous decision of the Committee concerning the licencing of rear loading wheelchair accessible vehicles as Hackney Carriages.The Committee was told that an application was rejected based on safety grounds and asked what had changed. The Licensing Officer told the Committee that previously there had been concerns about the safety of using rear loading vehicles at taxi ranks. Members were told further that WSCC were in a position to offer funds to redesign ranks, there was to be a forthcoming consultation on the issue involving the Licensing Authority and the trade.

A member of the public stated that the trade supported measures to improve public safety and told the committee that overregulation would lead to drivers seeking licences elsewhere. This would potentially lead to a public safety issue whereby the authority had no regulatory control of companies from outside of the area working in the Borough which could include companies such as UBER. It was claimed that there had been no evidence supplied by the authority of criminal activity taking place behind manufacturers rear tinted windows in the Borough of Worthing. The Member of the Public asked what evidence had the Council considered and was told that an answer would be provided in writing

A member of the public clarified that there had been no application made by Arrow Taxis for 20 rear loaders on the taxi rank. He asked what the licensing committee would do to ensure consistency across the region and told the committee that companies such as UBER would licence themselves in authorities with less strict regulations and operate within the Borough. Members were told that Arun had no limitations on age of vehicle or tinting windows. By introducing measures that would force drivers to get their licences elsewhere the Authority would be creating a public safety issue within the Borough. The Member of the Public was told that an answer would be provided in writing

A member of the public told the Committee that there had been recent news that the government would support the introduction of compulsory CCTV for licensed vehicles;

this had been, in the member of the public's opinion, unfounded. The government had stated that this was supported in principle. The statutory guidance stated that a blanket application of such a measure would give rise to the proportionality of such an approach and would require an appropriately strong justification and must be able to be regularly reviewed. The member of the public asked what was the policy justification for introducing a compulsory requirement for the installation of CCTV to licence vehicles, what evidence did the council rely on of incidents prior to the introduction of the decision. The Member of the Public was told that an answer would be provided in writing

LCCA/18-19/15 Animal Welfare Licensing Policy - The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

Before the committee was a report by the Director for Communities, copies of which had been circulated to all members, a copy of which is attached to the signed copy of these minutes as item 4. The report before Members sought consideration of the introduction of an Animal Welfare licensing Policy pursuant to legislative requirements.

The Presenting Officer introduced the report to the Committee and set out proposed arrangements including the type of activities that would be covered, how the arrangements were developed and the introduction of a new rating system.

The Committee questioned the presenting officer and it was agreed that information be provided to the Committee concerning the implemented fee structure and how the amounts therein had been formulated.

Resolved: that the Animal Welfare Licensing Policy be recommended to Council for adoption

LCCA/18-19/16 Hackney Carriage and Private Hire Licensing Handbook Review

Before the Committee was a report by the Director for Communities, copies of which had been circulated to all members, a copy of which is attached to the signed copy of these minutes as item 5.

The Licensing Officer introduced the matter to the Committee and set out the background to compilation of the report. The Committee went through the handbook in detail, studied representations made and were given advice from officers on various aspects.

Members discussed representations regarding the compulsory use of CCTV in vehicles, particularly the need to balance public safety against the right to privacy. Members agreed to amend the current entry so that those drivers who wanted to could install an on/off switch in the boot of their vehicles so that the CCTV could be switched off when they were not working. Members agreed that failure to turn the CCTV on when a driver worked could result in a serious sanction. Members also considered the safety of CCTV installation and agreed that safety issues concerning the installation of CCTV be delegated to Officers in consultation with the Chairman.

Members discussed a representation regarding a request to remove the knowledge test for drivers of executive vehicles. It was decided not to make any changes in this respect as the test was not onerous and was considered as a necessary requirement of the role.

The Committee agreed with the suggestion that compulsory disability awareness and CSE training should be taken on a three yearly basis with disability handling included although a caveat was added that the training should be at no cost or at a minimal cost to the driver.

The Committee considered representations from groups asking that rear loading wheelchair accessible vehicles be allowed as Hackney Carriage Vehicles as well as Private Hire Vehicles. Members were told by Officers that work was due to commence with WSCC on redesigning the ranks which could lead to wheelchairs being able to access rear loading vehicles in a safer manner. In light of representations and evidence about the changing of ranks the committee agreed to amend the handbook to allow rear loading wheelchair accessible vehicles to be licenced as Hackney Carriages.

The Committee took regard of a representation that requested the ability to use silver vehicles for Private Hire. Members agreed to make this amendment as they felt that the condition was an unfair limit on the options of vehicle a driver might purchase.

Members considered representations regarding the tint of windows. Officers told Members that an instrument to measure the tint of windows had been purchased following representations by the trade. There was a process for drivers to seek dispensation from set tint levels. Members accepted representations from the Police and Local Licensing Authority that a tint level should be set in the interests of public safety. Members agreed the new levels as suggested by officers and agreed that they would be applied to newly licenced vehicles, new rules would not apply to currently licenced vehicles.

Members considered the possible use of PDAs in place of taximeters and it was agreed that the use of PDAs as well as taximeters could be accepted if registered with the Council.

Members discussed the use of roof lights and door signs in Private hire Vehicles and agreed that no change be made to the current handbook as both measures assisted the public in identifying vehicles.

Members agreed that the penalty points applied to a Hackney Carriage vehicle for refusing to accept guide dogs would be extended to Private Hire Vehicles and that further amendment be made to the Penalty Points Scheme in relation to CCTV. Five points would be incurred for those drivers working without the CCTV switched on and a further five points for a second offense at which point the driver would be referred to the Committee

Resolved: that the handbook be agreed and amended as below

1. If the driver requires; an On / Off switch may be placed in the boot of the vehicle to allow the driver to turn the CCTV Off whilst the vehicle is being used for personal use. If such a system is fitted a warning indicator light must be fitted in the cabin to warn that the system is off
2. The CCTV must be turned On when the vehicle is operating as a licensed Private Hire or Hackney Carriage vehicle. This means during the period the vehicle is being used for the carriage of passengers that are pre-booked or when plying for hire.

3. Failure to operate the On switch whilst the vehicle is operating as a licensed Private Hire or Hackney Carriage vehicle may result in the driver's licence being suspended or revoked.
4. Safety issues concerning the installation of CCTV be delegated to Officers in consultation with the Chairman of the Committee.
5. Compulsory disability awareness and CSE training should be taken on a three yearly basis with disability handling included, the training should be at no cost or at a minimal cost to the driver.
6. In the case of all Hackney vehicles that are built or adapted for disabled passengers, the design of the vehicle should ensure that any wheelchair is loaded from the side or rear of the vehicle.
7. That the provision relating to the prohibition of silver Private Hire Vehicles be removed.
8. That the use of PDA's in place of taximeters in Private Hire Vehicles be accepted if approved by the Councils taxi licensing team
9. That the prescribed tint level be added to the handbook and it be applicable to newly registered vehicles
10. The penalty points applied to a Hackney Carriage vehicle for refusing to accept guide dogs would be extended to Private Hire Vehicles
11. That the penalty points scheme be amended to in relation to CCTV. Five points would be incurred for those drivers working without the CCTV switched on and a further five points for a second offense at which point the driver would be referred to the Committee. However, If the first offense is serious the licence should be immediately referred to the Committee for review

The meeting was declared closed at by the Chairman at 9:32pm, it having commenced at 6.30pm.

Chairman