

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE LICENSING AND
REGULATORY COMMITTEE – 27 MAY 2010

SUBMITTED TO THE COUNCIL MEETING – 20 JULY 2010

(To be read in conjunction with the Agenda for the Meeting)

- | | |
|--|----------------------------|
| * Cllr Mrs Gillian Beel (Chairman) | * Cllr Mrs Lucinda Fleming |
| * Cllr Mrs Elizabeth Cable (Vice-Chairman) | * Cllr Bob Frost |
| * Cllr Maurice Byham | * Cllr Julian Hubble |
| * Cllr Victor Duckett | Cllr Peter Isherwood |
| Cllr Mrs Patricia Ellis | * Cllr Bryn Morgan |
| * Cllr Mrs Carole King | * Cllr John Sandy |

*Present

7. MINUTES (Agenda Item 3)

The Minutes of the Meeting held on 15 April 2010 were confirmed and signed.

8. APOLOGIES FOR ABSENCE (Agenda Item 4)

Apologies for absence were received from Cllr Mrs Patricia Ellis and Peter Isherwood.

9. DISCLOSURE OF INTERESTS (Agenda Item 3)

Cllrs Hubble and Sandy declared personal interests in Agenda Item 9 as members of Go Godalming.

10. STATEMENT BY REPRESENTATIVE OF WAVERLEY LICENSED DRIVERS

Mr Andrew Phillips attended the meeting and his statement regarding Waverley's Age of Vehicle Policy and Seating Policy was tabled. The Committee agreed that Mr Phillips could address the meeting as a representative of taxi drivers and operators.

The Head of Democratic and Legal Services clarified the current Age Policy and explained that at a recent Taxi Liaison meeting licensees had requested a review of the Age Policy and the Seating Policy to take into account new Government guidance.

Mr Phillips was of the view that the current lower age limit at which a vehicle could be licensed did not take into account high quality/luxury vehicles that were built to a high specification. He suggested that MOT testing and twice-yearly vehicle testing were sufficient to ensure the safety and reliability of licensed vehicles.

Following Mr Phillips' statement the Committee discussed the above issue and also acknowledged the importance of licensees undertaking disability awareness training in order that they could widen their experience in assisting disabled customers.

PART I – RECOMMENDATIONS TO THE COUNCIL

11. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – VEHICLE AGE (Agenda Item 7; Appendix A)
 - 11.1 The Council had reviewed its policy for the minimum and maximum age of licensed hackney carriages and private hire vehicles in July 2009. The final phase of introducing the vehicle age policy agreed by the Council in April 2007 was due in September 2009. However, it was agreed in July 2009 that the final stage would be deferred until September 2010 and that officers would gain opinions/guidance from relevant bodies in order for the committee and taxi/private hire licensees to discuss at the April 2010 liaison meeting. The outcome of the liaison meeting was that a policy proposal would be put forward for the Licensing and Regulatory Committee to discuss at their next meeting.
 - 11.2 The report asked the Committee to review the existing vehicle age policy and to reconsider the proposed introduction of the next step in the vehicle age policy adopted in 1997. Up to 1997, the age policy for Waverley was that any vehicle could be licensed, provided it was (1) fit for purpose, and (2) under 10 years old. This had led to a fleet of licensed vehicles of great variety, from those that were very good and well cared for to those that were in a much less acceptable condition.
 - 11.3 A licensed vehicle suffers a great deal of wear and tear, not just mechanically when it covers many miles above the average for a saloon or private car, but also internally. A licensed vehicle can be used by a large number of different passengers in an average day. Vehicles come out of licensed service for many reasons, including accident damage, mechanical breakdown, general wear and tear, and any of these could lead to the vehicle becoming unfit for purpose. As a result, the owner would be obliged to make a large outlay for a replacement vehicle and this might be at a time when he/she was unprepared for the cost involved, particularly if the cause was an accident.
 - 11.4 The Licensing & Regulatory Committee had carried out an extensive review of all vehicle and driver policies at the meeting held on the 16th April 2007 and licensees were consulted fully at the time, and the majority were in agreement with the policy.
 - 11.5 The policy for vehicle ages was set on a sliding scale from September 2007 to ease the transition period, so that any car licensed after 1st September 2007 would have to be less than five years old at first registration, and would remain licensed until it was not more than 8 years from first registration. The following year, 1st September 2008, vehicles coming on for licensing afresh would have to be less than four years old at first registration, and could

continue to be licensed up to eight years from first registration. In all cases, once a vehicle had been licensed, it retained the rights under which it was accepted for a licence, provided it remained fit for purpose and satisfied all other requirements of the Council's policy.

- 11.6 On 1st September 2009, the policy was due to move by one year to its final stage, but this was deferred until September 2010 following a Licensing and Regulatory Committee decision in July 2009. If the final stage were to be implemented, vehicles newly-licensed from September 2010 would have to be under three years old when presented for their first test. All such newly licensed vehicles are entitled to continue to be licensed, provided they are fit for purpose, up to seven years from first registration, at which time they would have to be replaced. This policy allowed the proprietor to decide whether he wanted to buy a new or a nearly new vehicle, knowing at the point of purchase how long it would be able to be licensed by the Council.
- 11.7 'Grandfather rights' applied, so that anyone who had a current licensed vehicle would be permitted to keep the vehicle licensed for the period initially set. This means that for a few years there remained some vehicles which may continue to hold a licence until they are ten years old.
- 11.8 The net aim of the age policy had been to gradually improve the service and quality of vehicles available to the public, who may reasonably expect to be transported in vehicles of a good standard and in a clean and tidy condition, as well as being mechanically sound. To this end, in 2008 a six-monthly mechanical and fitness taxi test was introduced for all vehicles when they were over five years old as well as the standard vehicle conditions which included;

"The vehicle shall at all times be maintained in sound and roadworthy mechanical condition and serviced according to the manufacturer's recommendations."

"The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the Council."

- 11.9 The Department of Transport had recently issued an updated 'Best Practice Guidance' for Taxi and Private Hire Vehicle Licensing. In relation to the age of vehicles it states;

"There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. The following can be regarded as best practice:

Frequency Of Tests. The legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. For PHVs the requirement is for an annual test after the vehicle is three years old. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles (see 'age limits' below). Local licensing

27.05.10

authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on ad hoc basis and more frequently than the full vehicle test.

Criteria For Tests. Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs*. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, though these should not be unreasonably onerous.

Age Limits. It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old."

- 11.10 At the last liaison meeting with licensees on 15th April 2010 the vehicle age policy was the main topic for discussion. The extra imposition, as it is perceived by licensees, of having to replace old vehicles with much newer models than were insisted on previously had added to the licensees' operating costs. They had now expressed the view that it was likely to be very difficult for anyone whose vehicle had to be taken off the road for any (particularly unexpected) reason to be able to finance a replacement that complied with the full implementation of the policy after 1st September 2010 (under three years old at first licensing).
- 11.11 Officers had previously held taxi surgeries at Waverley's four main towns for licensees to attend and put forward their opinions. These opinions, along with those from Guildford vehicle testing station and Government guidance, were put forward at the liaison meeting with drivers held on the 15th April 2010. All drivers present agreed the need for six monthly tests after a vehicle was 5 years old. After discussion at this meeting a proposal by a licensee was made that any new vehicles should be under four years at first licensing and licensed until its tenth birthday. A show of hands for this proposal was asked of licensees for which it received a majority in favour of over 80%. A minority of drivers however felt that the only requirement should be to pass the mechanical inspection, and either to return to the 10-year age limit or have no limit. Some drivers had suggested an exception to any age limits for luxury type cars.
- 11.12 Following comprehensive discussion on the safety and comfort implications of amending the policy to allow a higher age limit for first registration, members were generally of the view that a four-year limit for first licensing was acceptable with a maximum of 10 years for relicensing, with twice yearly testing once the vehicle reached five years of age. Although members felt that luxury vehicles could be acceptable at an older age in terms of safety and comfort, it would be very difficult to introduce a clause into the policy to make allowances for this.

11.13 The Committee was concerned that the testing of vehicles did not include a thorough examination of the interior for wear and tear of seats and upholstery and would like this to be included in a future policy change as well as a requirement for licensees to undertake disability awareness training.

11.14 The Council's Solicitor advised the Committee that the current standard conditions of the licence issued to all drivers included a condition that the interior and exterior of the vehicle should be maintained in a clean and proper manner to the satisfaction of the Council. Members were also made aware that there had in the past been legal challenges to some local authorities that had imposed unlawful and unreasonable age limits. It was therefore important that although the suggestion for Council's policy for licensing vehicles was for 4 years and 10 years, applications for vehicles outside that age range could be considered on a case by case basis, particularly with regard to interior condition.

11.15 The Committee accordingly

RECOMMENDS that

1. the Council's policy for the licensing of Hackney Carriage and Private Hire Vehicles be amended as follows:

- 1. that a vehicle shall not be older than four years at first registration and may continue to be licensed up to ten years old;**
- 2. that once a vehicle reached five years of age it would be subject to six-monthly testing; and**
- 3. the above be subject to conditions on interior inspections and the inclusion in future policy on disability awareness training and emissions testing.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

12. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – SEATING POLICY (Agenda Item 8; Appendix B)

12.1 In 2007 Officers felt that there were possible safety issues about licensing MPVs for the same number of passengers as the manufacturer's recommended seating capacity, and following a recommendation from the Licensing and Regulatory Committee on 16 April 2007 the Council adopted the following policy;

"The Licensing Officer is authorised to refuse to licence the full seating capacity of any MPV or 'people carrier' type vehicle, or similar, having particular regard to seats in the centre/rear of a vehicle where obstruction of an exit may occur."

This was because of potential concerns about the safety and egress of passengers from larger vehicles.

12.2 The report asked the Committee to consider changing the existing vehicle seating policy with regard to MPVs, people carriers and similar type vehicles. Government and European Bodies deem these vehicles safe for the general public to use to their maximum seating.

12.3 Recent guidance from the Department of Transport stated that;

"The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers"

12.4 This policy could be a difficult one to manage for officers. Vehicle models were regularly changing or have different styled interiors that require it to be inspected by an officer. This was not always possible, as the licensees did not want to purchase a vehicle in case its seating capacity was restricted. That left the officer to make a decision from vehicle brochures or needing to visit a showroom.

12.5 To date officers were unaware of any accidents involving licensed MPVs where passengers have had a problem getting out.

- 12.6 All road vehicles undergo crash and safety tests before being allowed to be used on the road. If the vehicle was passed legal for road use by government for a certain amount of passengers then the issue was whether it would make a difference if the passengers were fare paying.
- 12.7 At the last liaison meeting with licensees on 15 April 2010 drivers asked the Council to review its policy on vehicle seating for MPVs to bring it into line with the latest Government guidance. The extra imposition, as licensees perceived it, of having to remove seats from their licensed vehicles to comply with Waverley's policy, imposed an unnecessary burden on their business because they were unable to carry the number of passengers for which the vehicle was designed. This may also have had a financial impact on the customers, as they may have needed to pay for two vehicles instead of one. The liaison meeting agreed that a policy proposal be put forward for the Licensing and Regulatory Committee to discuss at their next meeting.
- 12.8 Following discussion the Committee were of the view that as long as vehicle manufacturers and the Government were content that the recommended seating for MPVs would not pose any safety risk to passengers the Council's restriction should be removed. The Committee also agreed to a £20 charge to cover plate reissue if a licensee wished to amend their licence before they were due for renewal.
- 12.9 The Committee

RECOMMENDS that

2. **the seating restrictions on MPVs/people carriers and similar vehicles be removed and the existing Hackney Carriage and Private Hire Vehicle policy be amended accordingly.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

PARTS II AND III - MATTERS OF REPORT

Background Papers

The background papers relating to the following items in Parts II and III are as specified in the Agenda for the meeting of the Licensing and Regulatory Committee.

PART II – Matters reported in detail for the information of the Council

13. **STREET COLLECTIONS – GUIDELINES** (Agenda Item 9; Appendix C)
- 13.1 The Committee received a report that provided the framework for proposed amendments to the Council's Guidelines on Street Collections.

Licensing and Regulatory Committee 10

27.05.10

- 13.2 The Council had adopted a scheme to regulate street collections in February 2002. Under the Charities Act 2005, the government proposed bringing forward a complete overhaul of the law relating to street collections. However, to date, the government has not made regulations, or given any indication of when it might, which would implement the new provisions.
- 13.3 In the meantime, the Council had continued to operate its existing scheme and a particular anomaly had arisen in relation to collections at Godalming Bandstand, which was reported to the Committee on 29 March 2010. Go Godalming had applied for a programme of collections covering 18 Sunday afternoons from 3.00pm-5.00pm which had now been agreed. However, on 17 September 2010, they wished to collect in the Bandstand area only at an event on Saturday evening from 6.00 p.m. to 8.00 p.m. The Wings Appeal had already applied for, and had been granted, a permit for this particular Saturday for the whole of Godalming, until 6.00 p.m.
- 13.4 Proposed revisions to the Council's current Guidelines and Regulations state that usually collections are only granted for one or, very occasionally, for more than one collection to each organisation for the year.
- 13.5 The Committee discussed whether to impose a limit on the numbers of collections and agreed that for this year only collections previously agreed for Go Godalming would be allowed. In future however collections would be limited to four per year for each organisation, with any requests for additional collections to be determined by delegated authority.
- 13.6 The Committee therefore

RESOLVED that

1. the Council's guidelines for the grant of street collections in Waverley be amended to permit four collections per year by any individual or organisation applying and any requests for additional collections to be decided by delegated decision by the Head of Democratic and Legal Services in consultation with the Chairman and Vice-Chairman of Licensing; and
2. the revised guidelines and regulations, as amended above, be adopted.

PART III – Brief summaries of other matters dealt with

14. MINUTES OF THE MEETINGS OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE (Agenda Item 10; Appendix D)

RESOLVED that the minutes of the meeting held on 29 March 2010 be noted.

15. MINUTES OF THE MEETINGS OF THE LICENSING ACT 2003 SUB-COMMITTEES (Agenda Item 11; Appendices E and F)

RESOLVED that the minutes of the meetings of Sub-Committee A held on 12 April 2010 and Sub-Committee E held on 10 May 2010 be noted.

The meeting commenced at 10.00 a.m. and concluded at 11.33 a.m.

Chairman

G:\bureau\comms\licensing\2010-11\Regulatory\May 27 2010\001a Minutes 270510.doc

