

LICENSING COMMITTEE

15 JULY 2013

Present: Councillor J Brown (Chair)
Councillor P Jeffree (Vice-Chair)
Councillors I Brown, J Connal, K Crout, J Dhindsa (for minute numbers 1 and 2.), K Hastrick, H Lynch, M Mills, G Saffery, D Scudder, L Scudder and M Turmaine

Officers: Environmental Health and Licensing Section Head
Licensing Manager
Committee and Scrutiny Support Officer (JK)

1 APOLOGIES FOR ABSENCE/ COMMITTEE MEMBERSHIP

Apologies for absence were received from Councillors Derbyshire and Meerabux.

2 DISCLOSURE OF INTERESTS (IF ANY)

Councillor Dhindsa declared a non-pecuniary interest as he had a relative who was a taxi driver; he withdrew from the meeting.

3 MINUTES

The minutes of the meeting held on the 18 March 2013 were submitted and signed.

4 AMENDMENTS TO HACKNEY CARRIAGE AGE LIMIT POLICY

The Committee received a report of the Head of Community and Customer Services outlining a proposed change to the saloon and estate hackney carriages initial age limit.

The Licensing Manager introduced the report, and explained the history of the policy. He advised that members of the trade had asked that the Council consider amending the existing policy so that saloon and estate cars needed to be not more than four years old to be initially licensed, rather than three years old. This would bring the policy in line with the age limit for London-style cabs and would give drivers greater flexibility as more second-hand cars would be available to them. The Watford Hackney Carriage Drivers Association (WHCDA)

had now formally requested that the policy be for five years rather than four years.

Councillor Turmaine noted that increasing the initial age limit would be welcome; he asked what the reason was for this change. The Licensing Manager explained that drivers felt that cars which were three years old or newer were quite expensive to purchase; these cars often still had a dealer's warranty and may not require annual MOTs. There were more cars on the market which were four years old or more. The Licensing Manager questioned whether there would be an impact on the quality of the taxi fleet in Watford.

The Chair commented that if the policy were five years it may be easier for drivers to join or remain in the trade.

Councillor D. Scudder noted that the initial limit had been three years because of the issue of quality. He highlighted other issues such as mileage which had an impact on the quality of the vehicle. He advised that he would be reluctant to change the current policy.

Councillor Crout questioned whether there would be a significant difference in the cost of purchasing four year-old vehicles and five year-old vehicles. He added that the Council carried out inspections of both the safety and comfort of these vehicles. The Licensing Manager explained how the mechanical and safety inspections were carried out.

Councillor Turmaine highlighted the limit on the number of licences that were available in the Borough. The policy, therefore, would have little effect on the number of taxis on the road. The Environmental Health and Licensing Section Head replied that this was the case although a policy of five years would make it easier for drivers to stay in the trade.

The Vice Chair commented that it was a balance between the initial purchase cost of the vehicle and the perceived quality of the fleet. The older the initial age of the cars, the older the overall nature of the fleet would be. He felt that there was a good availability of ex-fleet cars which were approximately four years old. It seemed sensible to bring the starting age of the saloon and estate vehicles in line with the London-style cabs.

The Licensing Manager advised the Committee that the wording of the recommendation in the report should be amended to: "that the Committee approves the amendments to the Council's current conditions for hackney carriage vehicles to require saloons and estate vehicles to be not more than four years old when initially licensed".

The Committee voted on whether the policy should be retained as three years or amended to four years or five years.

RESOLVED –

that the Committee approves the amendments to the Council's current conditions for hackney carriage vehicles to require saloon and estate vehicles to be not more than four years old when initially licensed.

5 LICENSED DRIVER ENFORCEMENT POLICY

The Committee received a report of the Head of Community and Customer Services updating and revising the enforcement policy by:

- making minor changes to the schedule of contraventions;
- updating the procedure for revoking licences;
- introducing a system to suspend licences for short period in certain circumstances.

The Licensing Manager introduced the report and advised that recommendation 2.4 should be amended to read: 'that officers in consultation with the Chair of the Committee have delegated authority to make further minor amendments to the scheme as necessary.' The Licensing Manager explained that the report was to update the existing policy which allowed penalty points to be given to drivers who contravened byelaws and other rules. The changes proposed were fairly minor and were set out at paragraph 3.14 of the report. One change to the policy was to reduce the maximum threshold for penalty points in a year from 20 to 15. The Licensing Manager referred to the table at appendix 1 of the report and explained the proposed changes. He explained that the proposal was to use the power of suspension of a licence as a sanction.

In response to a question from Councillor Crout, the Licensing Manager confirmed that the number of complaints had increased and there had been approximately 120 in the last year.

Councillor Crout referred to recommendations 2.3 and 2.4 in the report and advised that he was concerned about what constituted a significant objection; this was quite subjective in his view. He asked what approaches had been made to the WHCDA on these proposals. The Licensing Manager explained that the proposal had come to the Licensing Committee first. He explained that the recommendations in question were designed to speed up the process, but the policy could be brought back to the Committee if Members wished. The Chair responded that she would prefer if the policy came back to the Committee as this would be more democratic. The Environmental Health and Licensing Section Head noted that recommendation 2.2 stated that any amendments would be consulted upon with the Chair. No decision had yet been made.

The Committee agreed that the policy should come back to a future meeting after consultation.

Councillor Turmaine referred to the recommended changes to the scale of contraventions in 3.13 and asked who made the decision in these cases. The

Licensing Manager responded that it would be the Licensing Officers and the Licensing Enforcement Officer who would undertake an investigation to see if a contravention had taken place. Drivers then had the opportunity to challenge the points with the Licensing Manager or the Environmental Health and Licensing Section Head.

Councillor Turmaine confirmed with the Licensing Manager that any appeal would be heard by a different officer.

Following a further question from Councillor Turmaine, the Licensing Manager outlined the appeal process for any driver who had reached 15 points.

Councillor Turmaine referred to the condition relating to the display of signage on a licensed vehicle. He asked whether magnetic signage could be used to allow removal when vehicles were being used in a personal capacity. The Licensing Manager responded that a licensed vehicle was always a licensed vehicle no matter what the current usage of the vehicle was. Potential changes were being discussed with the trade and he outlined the safety implications of the signage on licensed vehicles.

Following a question from Councillor Turmaine, the Licensing Manager explained that a 'reasonable excuse' for refusing to carry a passenger in the Borough would be if they felt threatened by the passenger or if they felt that the passenger did not have the means to pay the fare.

Councillor Lynch referred to certain contraventions which relied upon evidence from a reliable witness such as a Civil Enforcement Officer and asked whether residents could take photographs to be used as evidence as well. The Licensing Manager explained that photographic evidence from residents may not show the whole picture. The Chair confirmed that the Civil Enforcement Officers and other officers were trained thoroughly and were recognised by the courts. The Environmental Health and Licensing Section Head added that as points accrued if any licence were revoked and then appealed to the Magistrates Court, there was a potential for lay witnesses being required to attend court.

Councillor Hastrick referred to paragraph 3.5 of the report where she felt the wording was a little unclear. The Licensing Manager explained that the wording was often different in information leaflets for drivers. He explained a scenario where penalty points may be given instead of a penalty charge notice.

Following a question from Councillor Hastrick, the Licensing Manager explained that the Hampton principles were a code which had been developed after a government-commissioned report had considered how regulators operated with business.

Councillor D. Scudder asked if the suspensions would be a stand-alone punishment. The Licensing Manager confirmed that it could be a stand-alone measure; if a driver had three suspensions in a year his licence could be revoked.

Councillor D. Scudder asked what effect this new policy would have had in the last year if it were designed to increase quality in the trade. The Licensing Manager responded that it was difficult to say, he added that there were very few drivers in the last year who had reached 15 points. The Licensing Manager highlighted that the suspension was a particular deterrent and there was also the new measure of referral to a Licensing Sub-Committee for any reasonable cause.

Councillor L Scudder asked about the subjectivity of certain contraventions including adopting an unpleasant manner towards a passenger. The Licensing Manager agreed that this was a difficulty in dealing with complaints about licensed drivers. This was the reason that the contravention in question attracted only a fixed set of points rather than a range.

Councillor Saffery noted that certain contraventions could attract either penalty points or a suspension. He asked how decisions were made in these circumstances. The Licensing Manager advised that officers would look at the circumstances of the contravention and would also consider the driving history before proceeding.

Following a question from Councillor Mills, the Licensing Manager confirmed that while drivers were being investigated their licences were not suspended.

Councillor Connal asked about possible ways that quality in the taxi fleet could be rewarded. The Licensing Manager referred to the Driver and Vehicle Action Plan which contained a recommendation to introduce an accreditation scheme. This was under consideration for the future.

The Chair confirmed that the Committee was happy with recommendation 2.1, and that the report would come back to the Committee once consultation had taken place.

RESOLVED –

1. that officers consult with licensed drivers on the proposed changes outlined in paragraph 3.13 – 3.22 and at appendix 1 of the report.
2. that a further report be presented to the Committee once the consultation has taken place.

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LICENSED DRIVER CONVICTION POLICY

The Committee received a report from the Head of Community and Customer Services asking Members to adopt the revised policy guidelines for the licensed driver conviction policy. This policy was used when officers considered applications from drivers who had criminal convictions or who were convicted of offences whilst a licence-holder.

The Licensing Manager stressed that these were only guidelines and individual circumstances could always be taken into account. Changes had been made to the way that criminal records checks had been carried out and the other key changes were set out on page 22 of the agenda. The intention was to strengthen the policy where drivers had a violent, sexual, child-related, racially-aggravated or other serious crime on their record.

Following a question from Councillor Mills the Licensing Manager explained that criminal convictions were generally spent after five years. Councillor Mills noted that certain convictions never became spent.

The Licensing Manager referred to the changes with regard to driving offences and that licences could be revoked by the Council if a driver exceeded 12 points on their DVLA licence.

RESOLVED –

that the revised policy guidelines shown at appendix 2 of the report be adopted.

Chair

The Meeting started at 7.30 pm
and finished at 8.40 pm