

## LICENSING COMMITTEE

18 MARCH 2014

Present: Councillor J Brown (Chair)  
Councillor P Jeffree (Vice-Chair)  
Councillors I Brown, J Connal, K Crout, G Derbyshire,  
J Dhindsa, K Hastrick, H Lynch, M Meerabux, M Mills,  
D Scudder, L Scudder and M Turmaine

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

### 13 APOLOGIES FOR ABSENCE/ COMMITTEE MEMBERSHIP

Councillor D. Scudder had sent his apologies that he would be delayed.

No apologies for absence had been received from Councillor Saffery.

### 14 DISCLOSURE OF INTERESTS (IF ANY)

Councillor Dhindsa advised that although he had declared an interest in the past when the Committee had considered Hackney Carriage fares, as the item before the Committee related to a policy he would not be declaring an interest.

### 15 MINUTES

The minutes of the meeting held on the 22 October 2013 were submitted and signed.

### 16 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICIES

*The Chair had agreed that this report could go 'to follow'. This was to ensure compliance of the enforcement proposals within the delegation of the constitution*

The Committee received a report of the Head of Community and Customer Services providing the Committee with details of proposed changes to the policies following extensive consultation with drivers. The three areas where there were proposals for changes were; the enforcement regime, DSA assessments and vehicle age limits. The report asked the Committee to agree proposals in principle to be taken forward for formal consultation.

The Licensing Manager introduced the report and noted that the government had announced in the last few days the measures to be included in the Deregulation Bill which considered the level of burden councils placed on the taxi trade nationally. The Regulators' Code needed to be taken into consideration by the Committee. He suggested that each of the three proposed areas be discussed in turn.

### **1. Enforcement regime**

The Licensing Manager outlined the way that enforcement currently operated. The penalty point scheme did not necessarily fulfil its purpose any longer. The proposal was to revoke the penalty point scheme and to use the Environmental Services Enforcement Policy instead, which would be amended to include a number of additional provisions such as case reviews.

Councillor Lynch expressed her concern that the changes would have a detrimental effect on residents in Central Ward. She referred to incidents in Westland Road and asked whether the new system would be sufficiently robust. The Licensing Manager advised that the new system would be more effective as it would allow for the suspension of licences which would be a financial penalty. The proposal had been suggested by drivers at the workshops and would be more effective at tackling persistent offenders.

Following a question from Councillor Derbyshire, the Chair confirmed that the Driver Standards Committee who would review licensees when required would comprise two members of the Licensing Committee and a senior officer, and would be set up in the same way as a Licensing Sub-Committee.

Councillor Dhindsa asked for further clarification about the proposal before the Committee. The Licensing Manager explained that licences could be suspended in certain circumstances for major contraventions. Warnings would be given for minor breaches. The number of warnings received before a suspension was considered would depend on the offences committed. The Environmental Health and Licensing Section Head added that this was the purpose of moving to a more flexible system. The individual nature of the offences could be considered as well as the history and attitude of the driver at the time of the investigation. The correct approach would then be taken depending on the severity of the offence.

Councillor Dhindsa said he felt it was important to await the results of consultation. The Licensing Manager advised that a driver consultation workshop was scheduled for 2 April to which all drivers had been invited.

Councillor Dhindsa referred to the workshops which had already taken place and asked how the drivers were invited. He was aware of an issue where invitations had been sent to the wrong names or addresses. The Licensing Manager explained that every driver had been invited as well as all the private hire operators. Unfortunately, there had been a mismatch in some of the records on the previous occasion when the letters were sent out. The Council had subsequently apologised to the drivers concerned.

Councillor Dhindsa referred to the Watford Hackney Carriage Drivers Association (WHCDA) and said that they had not been consulted on the proposals. He felt that as the body was democratically elected and represented over 200 drivers they should be specifically consulted. He had concerns about the way the consultation had been carried out. The Environmental Health and Licensing Section Head responded that the members of the WHCDA had been invited along with all the other drivers. A number of drivers who attended had stated that the WHCDA did not represent them. The Council would deal with anyone in the trade who wished to speak to them. Representatives from the WHCDA had been invited but had not attended. The Council was not aware who was represented by the WHCDA and who was not. Inviting all drivers to the workshops was therefore the most democratic way of carrying out the consultation. The Chair confirmed that officers would be happy to meet representatives from the WHCDA to discuss their concerns. The Environmental Health and Licensing Section Head underlined that the Council was not the drivers' employer but it had a duty as a public body to deal with all of its customers.

Councillor Meerabux asked how much weight was given to complaints when developing the enforcement policies. The Chair responded that officers did their utmost to strike the right balance. Every complaint was carefully considered from both sides and she underlined the neutrality of officers. The Licensing Manager informed the Committee that when complaints were investigated the criminal standard of proof, beyond reasonable doubt, was used.

Councillor Crout stated that he was happy for the consultation to proceed. He referred to the penultimate paragraph of page 27 (appendix 2) and counselled that the language should be tightened up to ensure consistency. Officers agreed to review this, if necessary, after consultation with the drivers.

Councillor Turmaine asked what the motivation for replacing the penalty point scheme had been. The Licensing Manager responded that it was both due to the responses of the drivers and as a way of reducing the burden of regulation.

Following a question from Councillor Lynch, the Licensing Manager noted that the breach of the bylaws relating to ranking would be considered a serious offence. He added that a review of the town centre ranks had been carried out and the results were awaited.

Councillor Hastrick referred to the second sentence of Appendix 2 and questioned the phrase "no weight shall be given to driver history". The Licensing Manager advised that the sentence may need some further clarification; the intention had been to underline that the history of the driver would not be taken into consideration when investigating a complaint. The history would only be relevant when officers were considering how to deal with the complaint. A further discussion followed and the Environmental Health and Licensing Section Head advised that the sentence had been included to combat the perception that history was taken into account. It was agreed that the sentence should be amended to read "no weight shall be given to considerations of driver history as part of the investigation process."

Following a question from Councillor Dhindsa, the Licensing Manager advised that complaints were usually investigated by the Licensing Enforcement Officer. Councillor Dhindsa added that it was important to consider the wider picture when investigating complaints. He was also concerned about the provision of taxi ranks.

Following a question from Councillor Meerabux, the Licensing Manager said that it would be possible for drivers to bring a representative to a Case Review

The Committee agreed for the proposed changes to the enforcement regime to go out for consultation with the amendments to Appendix 2 as discussed.

## **2. DSA assessments**

The Licensing Manager introduced the proposal and explained how the system currently operated. He explained that the drivers did not necessarily see it as a deterrent and some could 'drive to the test'. It was for the Committee to decide whether it was appropriate to have some form of deterrent or to leave it to criminal law mechanisms.

Councillor Derbyshire expressed the view that requiring licensees to take an additional assessment after they had accrued nine points on their DVLA licence was unnecessary. He felt that the risk of suspension of their DVLA licence was sufficient deterrent. Councillor Dhindsa concurred with this view.

Councillor Jeffree noted that there were precedents of the courts not suspending drivers' licences with 12 or more endorsements when the defendant had successfully argued that their livelihood depended on their licence. He was in favour of proactive training for licensed drivers.

Councillor Turmaine asked whether the drivers were still able to work between the tests. The Licensing Manager explained that drivers were required to notify the Council within 28 days of any conviction, caution or driving licence endorsement. Drivers then had three months to present a pass certificate.

Councillor D. Scudder asked whether in the situation where a driver has accrued 12 points on their DVLA licence without it being suspended, the WBC licence could be revoked. The Licensing Manager noted that this had been the situation in the past but it was difficult legally as the decision could be appealed against to the same court which had decided to allow a driver to continue with 12 points on their DVLA licence.

Councillor Lynch referred to a recent incident and asked about CCTV at taxi ranks. The Environmental Health and Licensing Section Head explained that there was CCTV and taxi marshals who wore CCTV cameras in the town centre. Officers used this information when investigating complaints. Proactive operations were also carried out in partnership with other authorities.

There was no consensus on this issue and the Committee agreed to await the results of the consultation.

### **3. Vehicle age limits**

The Licensing Manager explained that the policy only applied to Hackney Carriages; there were no age limits for private hire vehicles. He outlined the current age limits which were in place. The policy was intended to ensure comfort and to refresh the fleet rather than maintain safety which was regulated in other ways. The drivers felt the policy was too restrictive.

Councillor Jeffree stated that his view was that seven years old was quite old for a car to be licensed for the first time. He agreed that the upper age limit should be abolished. He was sympathetic to the idea of requiring two MOTs per year for older vehicles.

Councillor Meerabux stated that there was not necessarily a correlation between the age of the vehicle and its condition. He asked whether there was any scope to introduce random testing. The Licensing Manager replied that the Council had formal powers to do this if required. It was a question of resources.

Councillor Turmaine did not agree the vehicles should be relatively new when first licensed as long as the safety was ensured. Councillor Crout agreed; modern cars were built to last. Interior fittings could be replaced as required.

Councillor Derbyshire stated that the condition of the taxi fleet reflected the image of the town. He would prefer to see the fleet refreshed more frequently.

The Chair stated that she agreed that older cars were not necessarily in a worse condition. She did not feel a maximum age limits for licensed vehicles were necessary particularly as they were regularly inspected.

The Committee agreed to consult on the proposal for the maximum age limit for vehicles when they were first licensed to be seven years old and to ask for views on random testing.

**RESOLVED –**

(1) that officers consult with the hackney carriage and private hire licence-holders, operators and other stakeholders about the emerging policy recommendations, with the amendments agreed by the Committee.

(2) that after consulting as above, the Head of Service be authorised to implement the policies in consultation with the Chair of the Licensing Committee unless any substantial changes to the policies are proposed in which case the policies to be referred back to the Committee for further consideration.

The Committee received a report of the Head of Community and Customer Services outlining the review of the charity street collection policy.

The Licensing Manager introduced the report. He explained that the two types of collections were cash collections and direct debit collections. He informed the Committee that the proposal had been formulated following public consultation. He outlined the details of the proposals. Following the consultation, Vicarage Road had been added to the policy.

Councillor I Brown felt that it was important that a balance was struck. Some felt that direct debit collection was 'emotional blackmail' and did not want to be harassed while they were in the town but he understood the importance of the collections for charities. He commended the report.

Councillor Jeffree agreed and added that it was useful to concentrate the direct debit collectors in one part of the town. However, he remained concerned about the numbers of collectors permitted under the policy. He noted that between Clarendon Road and King Street there would be six allowed, not necessarily from the same charity. He suggested that officers renegotiate with the Public Fundraising Regulatory Association (PFRA) to see if the number could be brought down to four collectors in that location.

Following a question from Councillor Lynch, the Licensing Manager confirmed that there was no restriction on those who were just speaking to the public or distributing leaflets for charitable, religious or political purposes. Leaflet distribution by commercial organisations was regulated. Stalls, however, had to be located in specific locations.

The Licensing Manager confirmed, in response to a question from Councillor Connal, that sellers of the Big Issue would not be affected by this policy.

Councillor Meerabux asked whether local charities could be given precedence under the policy. He added that he did not find charity collectors aggressive.

Councillor Derbyshire outlined his concern about the practice. He was worried about elderly people who could be intimidated into donating and may be unaware of the implications. He asked about the numbers of charity collectors currently. The Licensing Manager advised that the number varied. The figure of six came from a site meeting with the PFRA. He said officers could go back to the PFRA and see if they would agree to the number being reduced to four. If this was accepted, the agreement could then be made.

Councillor Derbyshire referred to the location of the collectors; in his experience the area between Charter Place and Marks and Spencer was the most congested area. The Licensing Manager explained that the locations set out were, in part, due to the wider pavements further up the High Street.

The Chair suggested that officers renegotiated with the PFRA to see if they would agree to four collectors. If four was not acceptable, the matter could be brought back to the Committee for further discussion. She added that Vicarage

Road should be included. She suggested that officers speak to the Football Club following the issues highlighted in the consultation.

RESOLVED –

1. That the new charity street collection policy set out at appendix 2 be approved with the amendment that only four direct debit collectors be allowed to collect at any one time.

2. That officers enter into the Site Management Agreement with the Public Fundraising Regulatory Association as set out at appendix 3 subject to agreement being reached to reduce the number of collectors in paragraph 3.1 of the agreement from six to four. Should this agreement not be reached, the matter to be brought back to the Licensing Committee.

3. That delegated authority be given to the Environmental Health & Licensing Section Head and the Head of Community & Customer Services as set out in the report.

Chair

The Meeting started at 7.30 pm  
and finished at 9.05 pm