

LICENSING PANEL

29 APRIL 2013

PRESENT: Councillors Phillip Bicknell (Acting Chairman), Christine Bateson (substituting for Councillor Jenner), Tom Bursnall, Carwyn Cox, Geoff Hill, David Hilton, Charles Hollingsworth (substituting for Councillor Grey), Sayonara Luxton and John Penfold (substituting for Councillor Fido).

Officers: Elaine Browne, Alan Barwise, Mike Johnson, Steve Johnson, Steve Smith and Karen Williams.

PART I

38/12 APPOINTMENT OF CHAIRMAN

RESOLVED: That Councillor Bicknell be appointed as Chairman for the duration of the meeting.

39/12 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Fido, Grey, Jenner, Lawless and Sharp.

40/12 DECLARATIONS OF INTEREST

None

41/12 MINUTES

RESOLVED: That the minutes of the meeting of the Panel held on 15 January 2013 be approved.

42/12 MOT GARAGES FOR PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLES (LP 10/12)

The Trading Standards and Licensing Manager explained to Members that all vehicles needed an MOT certificate before being licensed. However, this meant that a vehicle could be submitted for licence 11 months after having passed the MOT test. Considering the high mileage rates of taxis this could mean a vehicle was potentially unsafe. All vehicles were inspected by licensing officers but this was only a basic visual check. At the last meeting Members had agreed to consult on the proposal to identify local garages as approved by the Council and to require all vehicles to have had a successful MOT test within 14 days of application for licence.

Councillor Hilton commented that the nomination of garages may cause problems for some operators who already had contracts with a garage for all work on their fleet. He believed the requirement for an MOT close to application for licensing was perfectly sound. Councillor Mrs Luxton suggested that a 14 day period may be too short and that it should be increased to 30 days. Councillor Hollingsworth

commented that he felt the proposals were an added level of bureaucracy as an MOT was only valid at the time it was issued. If the council had concerns about any garages in the local area not undertaking MOT tests correctly, the correct route would be to notify the relevant central government department.

The Licensing Team Leader commented that officers did experience a number of vehicles that had a valid MOT certificate but looked unsafe. The borough currently had 944 Private Hire vehicles and 151 Hackney Carriages which was too large a number for officers to inspect on a regular basis. An MOT test at an approved garage would include a visual inspection. The Licensing Team Leader felt that the licensing officer's time would be better spent dealing with specific complaints from residents and multi-agency checks.

Members were advised of a recent case considered by the Appeals Panel. The appellant had a 10 year old vehicle that was in immaculate condition. Members decided to issue a licence but require an MOT within 6 months. If the recommendations in the paper were approved, the upper age limit policy could be reviewed by Members. He confirmed that, in conjunction with VOSA, officers could cancel an MOT on the basis of substantial problems. The Chairman commented that the safety of residents was paramount.

It was confirmed to Members that a number of neighbouring boroughs already had an MOT garage policy in place. The Licensing Team Leader commented that the proposal did not add a layer of bureaucracy as all vehicles were required to have an MOT anyway. Electronic applications may also be possible in future.

Councillor Bursnall suggested the time limit be amended to 28 days, which was agreed by the Panel.

RESOLVED UNANIMOUSLY: That:

- i) The Head of Public Protection be authorised to implement a system for authorised MoT garages following a tender exercise.**
- ii) The Hackney Carriage and Private Hire vehicle policies and conditions be amended so that only MoT certificates which are under 28 days old are acceptable when presented to the Licensing team.**

43/12 HACKNEY CARRIAGE LICENCES (LP 11/12)

Members recalled the decision at the last Panel meeting to consult on a number of options in relation to the number of Hackney Carriage licences in the borough. Members noted that if option 1 were approved, the wording should be amended to make it clear that if Members were minded to not issue any further licences, a survey would need to be undertaken first. It was noted that 1417 consultation letters were sent out to the trade. 380 responses were received, of which 371 were valid. Of these, 217 favoured option 1, which represented 58% of respondents and 15.3% of those consulted. Of the 217, 75 were Hackney Carriage proprietors. Members noted that the Department for Transport had issued guidance that councils should not impose quantity restrictions. As of November 2011, the Royal Borough was one of only 95 that continued to impose such a restriction.

The Panel was addressed by Mr Mohammed Yasin, who represented Hackney Carriage drivers in the Borough. Mr Yasin stated that since the discussion at the last meeting, the situation had deteriorated as supply of vehicles outstripped demand. Most drivers were struggling to make a living. The consultation results showed that 58% wished for the issuing of new licences to be stopped. Mr Yasin believed Members should request a survey be undertaken to demonstrate the over-supply. Hackney Carriage drivers in the Borough were willing to pay for the costs of such a survey.

Councillor Hilton stated that the decision to issue extra licences each month had come after lengthy discussions. He did not believe that option 1 was relevant as the discussion about issuing more licences would need to take place at some point. It was confirmed that an extra 55 licences had been issued to date. Each month 5 were issued on a lottery basis, from a pool of approximately 400 applicants.

Councillor Bursnall commented that the ranks in Windsor were getting very full with taxis queuing and causing traffic problems. The Chairman commented that the council had undertaken a consultation, not a referendum on the issue. He was also concerned that there were not enough ranks in either Maidenhead or Windsor. Members were advised that work had been done to identify potential new rank spaces. Negotiations were underway with Desborough College about using their car park as overflow. Despite requests for more space, Maidenhead station would only allow 6 rank spaces. More spaces in Queen Street were being considered. Some more spaces had also been identified in Ascot. There was no legal obligation on the council to provide a certain number of rank spaces per vehicle.

Members noted that central government were of the view that de-restricting the number of licences would allow the market to control the number of vehicles needed. It was noted that other businesses such as pubs were not restricted in number. The Licensing Team Leader commented that he had never had a licence returned to him.

Councillor Hilton commented that he was in favour of letting the market decide. Councillor Hill commented that if the 75 Hackney Carriage proprietors were removed from the consultation, this meant only 38% of respondents were in favour of option 1. He commented that it could only be assumed that the rest of the trade, which chose not to respond to the consultation, did not care. It was noted that a majority of drivers in the Royal Borough were not residents.

It was confirmed that Hackney Carriage vehicles were required to run on the meter unless they were outside the borough boundaries or a lesser fee had been agreed. A Hackney Carriage could be used as a Private Hire vehicle anywhere else in the country. Councillor Hilton commented that the trade had voted for protectionism. If 400 people wanted a licence each month, this indicated an undersupply of licences. The Licensing Team Leader confirmed that some of the 400 already had a Hackney Carriage licence, yet had also voted for option 1. Councillor Hilton stated that for him option 1 was not an option. He suggested if more licences were issued slowly, this would give an indication if enough demand was available.

Councillor Cox commented that the low response rate made it difficult to know what the entire trade thought. Anecdotally the work to increase rank spaces in Windsor was enabling people to leave the town centre more quickly on a Friday and Saturday evening. This also had the effect of lowering crime and disorder problems. Councillor Cox believed that the council should listen to central government guidance that it was best practice not to restrict. The borough was in a minority of authorities already in this respect. He understood the concerns of the drivers but a balance was needed to ensure benefit to residents.

Councillor Mrs Bateson highlighted that residents in the south of the borough had to wait a long time to get a taxi on a Friday or Saturday evening as most drivers went to Maidenhead or Windsor. She felt the consultation results reflected a desire for protectionism by the trade as opposed to choice for the resident.

Councillor Mrs Luxton stated that she felt option 1 would be going backwards; options 2 and 3 were not good enough when there was a demand for licences; therefore she proposed option 4.

Councillor Penfold commented that he used taxis regularly and had always found the service to be very good and he hoped this would not alter if the numbers were increased. The Chairman commented that Private Hire drivers had petitioned the council to open up the market. He was aware that restriction of licences made them a valuable asset. This problem was removed if licences were de-restricted. He urged Hackney Carriage drivers to make representations to the council about suitable locations for more rank spaces. It was confirmed that any further ranks would involve discussions with the highways department and consultation with the police. The Chairman commented that the taxi marshalling scheme initiated a few years previously had been filled by Private Hire drivers as there were insufficient hackney carriage drivers. He suggested that an increase in Hackney carriage drivers could alter this situation.

RESOLVED UNANIMOUSLY: That RBWM completely derestricts immediately the number of Hackney Carriage Licenses in order to allow anyone who complies with RBWM's existing Hackney Carriage Driver and Vehicle Policy and Conditions to apply for a Licence.

44/12 CONSOLIDATION OF RBWM'S PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLE & DRIVER POLICIES AND CONDITIONS (LP 12/12)

Members were advised that the council required all drivers, vehicles and operators to comply with published policies and conditions. Various amendments had been made to the documents over the last few years therefore there were currently four coexisting but different sets of conditions. The last meeting of the Panel had agreed to consult on the consolidation of the four sets into one. No responses had been received. Members noted the proposed changes to the policies as detailed on section 2.4 of the report.

Councillor Hilton commented that references to CRB checks should be amended to DBS.

RESOLVED UNANIMOUSLY: That Members adopt the three Policy and Conditions attached (as Appendices A - C) to this report. The Policies and Conditions relate separately to: Private Hire Operators, Private Hire Drivers and Vehicles and Hackney Carriage Drivers and Vehicles.

45/12 EARLY MORNING ALCOHOL RESTRICTION ORDERS (LP 13/12)

Members were advised that the Police Reform and Social Responsibility Act 2011 gave a local licensing authority the power to make an Early Morning Alcohol Restriction Order (EMRO) if it was satisfied that this would be appropriate for the promotion of the licensing objectives. If a licensing authority, the police, Council Member or members of the public had identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and had sufficient evidence to demonstrate that it was appropriate for the promotion of the licensing objectives, it could propose making an EMRO.

Members noted that an EMRO restricted the sale of alcohol in a particular area for a specified period anytime between the hours of midnight and 6.00 a.m. The licensing authority must decide the days (and periods on those days) on which the EMRO would apply and the area covered. An EMRO may apply:

- In relation to the same period of every day, or for different periods on different days
- In relation to the whole or part of a licensing authority's area; or
- For a limited or unlimited period.

It was confirmed that, as detailed on page 89 of the report, hotels supplying alcohol to residents through mini-bars or room service could be exempted.

Councillor Hilton, as Chairman of the Crime and Disorder Overview and Scrutiny Panel, commented that the O&S panel had originally felt that a late night levy was a good idea. However it was now felt that a levy did not solve any of the disorder problems, therefore an EMRO was more appropriate. Inspector Millward had presented to the O&S Panel on the issues in Maidenhead and Windsor. The police were currently gathering evidence to see what was possible. Members noted that Norwich City Council was considering an EMRO and was currently in consultation with the trade. He recommended that the council should support the police in evidence gathering but wait to see the outcome of the Norwich plan before any decision was made in relation to an EMRO in the borough. It was confirmed that an EMRO would supersede any existing terminal hours. There was not right of appeal against an EMRO other than judicial review.

RESOLVED UNANIMOUSLY: That the Licensing Team be asked to investigate further the possibility of introducing an EMRO into any particular part of the Royal Borough.

46/12 DATES OF FUTURE MEETINGS

Members noted the following dates of scheduled future meetings:

15 July 2013
14 October 2013

47/12 MEETING

The meeting, which began at 6.00pm, ended at 7.30pm

Chairman.....

Date.....