

LICENSING PANEL

TUESDAY, 5 JULY 2022

PRESENT: Councillors Gurpreet Bhangra (Chairman), Gary Muir, Ross McWilliams, Julian Sharpe, David Cannon, John Baldwin, Mandy Brar, Karen Davies, Jon Davey, Geoff Hill and Sayonara Luxton

Officers: Mark Beeley, Greg Nelson and Tracy Hendren

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Bowden, Councillor Hilton and Councillor Haseler. Councillor McWilliams, Councillor Sharpe and Councillor Muir were attending the meeting as substitutes.

Councillor McWilliams had informed the clerk that he would be late to the meeting.

DECLARATIONS OF INTEREST

Councillor Brar declared that she was a licensee.

The Chairman declared that he was a Transport for London PCO driver and was a SIA Close Protection officer. He was declaring this in the interests of openness and transparency. Further information was available on Councillor Bhangra's register of interests and had no bearing on the agenda this evening.

MINUTES OF PREVIOUS MEETING

Greg Nelson, Trading Standards & Licensing Manager, gave the Panel an update on what had been discussed at the last meeting. The council had been unable to find a person or organisation to carry out the research that had been discussed. However, colleagues were considering a Business Improvement District (BID) application, this would raise money via a local levy to fund projects within the BID's area boundaries. A BID could only be set up after a ballot of businesses in the defined area. The idea of a BID would be included in a night time economy strategy paper due to be considered by Cabinet in August 2022, where various options would be discussed. If a BID was the preferred option, it would probably replace the potential for a late night levy, rather than having the two schemes run in parallel. If the late night levy was to be used, the amount of money raised would be:

- Between 12am – 6am, the amount raised would be £203,000, of which £98,500 would come from Windsor businesses.
- Between 2am – 6am, the amount raised would be £51,500, of which £29,000 would come from Windsor businesses.
- Between 3am – 6am, the amount raised would be £27,000, of which £13,000 would come from Windsor businesses.

Councillor Davey said that a big percentage went to the police, it seemed like a big project for the council to focus on which would not gain that much revenue.

Greg Nelson confirmed that Thames Valley Police received 70% of the amount raised, he understood the comments made by Councillor Davey.

Councillor Baldwin asked if the BID would be looking to consider the same area of concern as the night time economy levy, which was Windsor. He noted that the night time economy levy needed to apply to the whole borough, where as the BID could apply to a specific area.

Greg Nelson said that it depended on what Cabinet and Full Council agreed in terms of the detail of the area and which part of the borough was covered. Any money raised could be used for projects in the local area.

Councillor Cannon clarified that the idea of the night time levy was to address problems across the borough, not just Windsor. On the money received from the BID, it was for the BID group to decide how to spend the money rather than hand it all over to the police.

Greg Nelson confirmed that the late night levy would apply across the borough. The BID would be run by an independent group, the money would be spent as chosen by that group.

Councillor Hill said that things had changed over the past couple of months, costs had gone up and he asked whether it was right that a levy was being considered on businesses in the borough under the current economic climate.

RESOLVED UNANIMOUSLY: That the minutes of the Licensing Panel meeting held on 19th April 2022 were approved as a true and accurate record.

MINUTES OF THE LICENSING AND PUBLIC SPACE PROTECTION ORDER SUB COMMITTEES

RESOLVED UNANIMOUSLY: That the minutes of the Licensing & Public Space Protection Order Sub Committees held on 6th May 2022, 9th May 2022 and 7th June 2022 were noted by the Panel.

A PROPOSAL TO CHANGE THE RBWM HACKNEY CARRIAGE TARIFF & POLICIES

The Chairman explained that the report would be considered in three separate items, with the Panel discussing and voting on each part of the recommendation that had been proposed by officers in the report.

Councillor Sharpe suggested that the Panel considered the recommendations in the opposite order.

The Chairman decided to keep the order as it was presented in the report, there were a number of taxi drivers present at the meeting who were there to speak on the first recommendation in the report.

Greg Nelson outlined the report and said that the hackney carriage tariff was the means by which the fare was calculated. The tariff was set in law under the Local Government Miscellaneous Provisions Act 1976, the local authority set the level of the tariff. Around 81% of drivers in RBWM had requested an increase in the basic tariff, tariff 1, and in the equivalent tariff for night time and bank holidays, tariff 2. They had also asked for an increase in several other charges. The main proposal in the report was the introduction of a minimum fare of £6, up from £3, and £9 for the second tariff. The meter would start at £3.30 and at the end of the journey, once the stop button was pressed, the meter would revert to £6. Drivers had proposed that 'minimum £6 fare' stickers were introduced inside vehicles, it was important that this change was made clear to passengers. Greg Nelson suggested that the signage to be used was signed off by the Head of Housing, Environmental Health & Trading Standards before coming into use.

The other proposal in the report considered the introduction of a B tariff, for people carriers of five or more people. The current tariff was set by the Licensing Panel in February 2020 and had provided a 15% increase on the previous tariff. Previous increases had been agreed in 2016 and 2014. If the Licensing Panel agreed any changes to the tariffs, there was a requirement for the new tariff to be published in at least one local newspaper covering the borough and also be available at the Town Hall. There would be a 14 day period where objections to the new tariff could be made, these would need to be considered before the new tariff could be implemented.

There were two registered public speakers present at the meeting. Mr Sabir said it was important that the tariff rose to offset the issues that drivers faced today, with inflation and fuel costs rising rapidly. It was felt that this tariff rise was essential as the current tariff did not serve its purpose at all. The current minimum tariff meant that some journeys were not worth doing for drivers and this was not sustainable, especially as private operators were able to charge more. The proposal to raise the minimum tariff to £6 would go a long way to addressing the issues caused by the current situation. On the five or more passenger tariff, Mr Sabir suggested that this needed to be increased as it was cheaper for customer groups of this size to use a people carrier rather than two 'standard' cars and meant that drivers made less money. Mr Sabir suggested that there should be a 50% increase so that five or more passengers could be charged a fairer price.

Councillor McWilliams arrived at the meeting.

Mr Yasin said that taxi drivers had struggled over the course of the pandemic and now due to the rising fuel costs. The vast majority of journeys in RBWM were short and it meant the minimum fare was important, it helped to ensure that drivers were able to recover any costs and make a profit. Drivers were required by law to take the next passenger in the queue, drivers could wait a significant period of time for a customer who only wanted to travel a short distance. Other private operators charged more than £6 minimum fare already. Taxi drivers also were rarely flagged down around the borough, most customers booked in advance or got a taxi from the taxi rank. A 10% rise in the tariff could only cover the costs of taxi drivers, they would still be unable to make a profit. A number of taxi drivers had been forced to leave the profession due to the costs and they were unable to make a living.

The Chairman asked how the proposed changes to the tariffs would be implemented.

Greg Nelson explained that the meters would need to be adjusted, should the proposed tariff increases be agreed by the Panel.

Councillor Cannon asked how many licensed hackney carriage drivers there were in RBWM.

He was informed that there were just under 100 drivers.

Councillor Cannon said that the petition had been signed by around 80 drivers, therefore the petition had been signed by approximately 80% of all drivers in the borough. The industry was making the request for this, therefore the Panel should consider it carefully. It was a commercial operation, by increasing the price, drivers could price themselves out of the market.

Councillor Luxton asked how the tariff compared to other Berkshire local authorities. She asked why it was a 40p charge for additional luggage rather than 40p per suitcase or bag.

Greg Nelson said that a comparison had been made with local authorities in the South, this had been included in the report. The Panel could set the tariff level, it could change the amount charged for extra luggage if it wanted to.

Councillor Sharpe understood the points which had been raised by the taxi drivers. He asked if there was a comparison available to compare what other private operators were able to charge.

Greg Nelson said that RBWM had no control over what private operators charged their customers. He had been informed that an average was approximately £6 or £7 for their minimum charge.

Councillor Sharpe said that the hackney carriages were therefore cheaper for residents than private hire operators. He asked if there was an increase in business for hackney carriage drivers as a result.

Greg Nelson was unable to answer the question but he was aware that hackney carriage drivers had been struggling.

Councillor Sharpe asked whether putting the price of hackney carriages up was the right thing to do for residents, this needed to be considered. He understood the case from the taxi drivers.

Councillor Hill said that he was supportive of the recommendation which had been made by officers. The request had been made by the taxi drivers and they therefore knew if they would be pricing themselves out of the market.

Councillor Davy commented that the five or more customers tariff was not mentioned in the report. He felt that a sheet should clearly be shown in taxis which contained information on all of the charges and tariffs.

Greg Nelson confirmed that it was included in the report, under tariff B. There was a requirement for tariffs to be displayed in the hackney carriage, it was important that the council did not receive complaints from residents about being overcharged if the price increase was agreed by the Panel.

Councillor Davey noted the cost of the meters being set to include the price increase, he asked if there was anything the council could do to help with this additional cost.

Greg Nelson said that he was happy to speak to the engineers to see if the minimum fee could be charged.

ACTION – Greg Nelson to speak to engineers about the cost of changing meters for RBWM hackney carriage drivers.

Councillor Davey agreed with the recommendation.

Councillor Brar asked if there were any electric charging points at the taxi ranks in the borough.

Greg Nelson said that there were no charging points currently, in the RBWM five year plan there was an aim to consider how to address the issue of RBWM licensed cars going electric.

Councillor Brar said that RBWM had used a company which had installed the electric charging points already in the borough, the council should use the same company to see if points could be installed at taxi ranks. She said that she would send Greg Nelson the details after the meeting.

Councillor McWilliams had joined the meeting late but confirmed that he had heard both of the public speakers watching through YouTube and had arrived to hear the full debate and discussion from the Panel in person. He was inclined to support the recommendation but was concerned about those residents who were disabled and relied on hackney carriages to transport them around the borough. The impact had been noted as part of the Equalities Impact Assessment which was included as part of the report pack and this was worth considering.

Councillor Davey commented on the electric charging points and said that infrastructure officers were aware of the organisation which Councillor Brar had mentioned.

Councillor Luxton suggested that she would like to see the additional package charge raised from 40p, either to 50p or £1.

Greg Nelson understood the sentiment but needed to clarify the language used. The tariff used the word 'package' and the number of packages carried 'outside the vehicle'. This was historic wording and it would therefore be sensible to use the word suitcase.

Councillor Davey suggested that the decision on the level of the fee to be charged was deferred to the drivers for them to decide.

Councillor Cannon noted that the decision would go out to consultation with taxi drivers anyway, any amendment could be considered by the Panel.

Greg Nelson asked for an addition to the recommendation, that if any increase was agreed, that relevant signage would be produced and signed off by the Head of Housing, Environmental Health & Trading Standards.

The recommendation was proposed by Councillor Cannon and seconded by Councillor Luxton.

A named vote was taken.

Recommendation i) listed in the report (Motion)	
Councillor Gurpreet Bhangra	For
Councillor Gary Muir	For
Councillor Ross McWilliams	For
Councillor Julian Sharpe	For
Councillor David Cannon	For
Councillor John Baldwin	For
Councillor Mandy Brar	For
Councillor Karen Davies	For
Councillor Jon Davey	For
Councillor Geoffrey Hill	For
Councillor Sayonara Luxton	For
Carried	

RESOLVED UNANIMOUSLY: That the Licensing Panel:

- i) Agreed the proposed increases to the hackney carriage tariff as set out in Table 1A and once the required consultation process had been completed, the final decision on implementing the changes was delegated to the Head of Housing, Environmental Health & Trading Standards in consultation with the Licensing Panel Chairman and the Cabinet Member for Anti-Social Behaviour, Crime and Public Protection.**
- ii) Agreed that the wording on the extra charge for each package carried outside the vehicle was changed to 'for each suitcase carried outside the vehicle'. The exact amount that the price should be increased by was delegated to the Head of Housing, Environmental Health & Trading Standards after consultation with hackney carriage drivers.**

- iii) **Agreed that appropriate signage would be displayed in all hackney carriages informing customers of the increase in tariffs, the signage would be signed off by the Head of Housing, Environmental Health & Trading Standards.**

The Panel moved on to consider the second part of the recommendation listed in the report.

Greg Nelson said that some changes were required to the checks that the council carried out when considering if a taxi driver was able to live and work in the UK. Staff were already carrying out the amended changes, RBWM just needed to formally amend the policies, with the agreement of the Panel.

Councillor Luxton asked how the council checked that documents produced by applicants were legitimate, for example did officers check that passports were real.

Greg Nelson confirmed that all documents were checked in person.

Councillor Brar said that she was sure that a proper driving licence needed to be in place before applicants visited the Town Hall.

Greg Nelson said that it was clear on the website which documents they needed to bring.

The recommendation was proposed by Councillor Cannon and seconded by Councillor Sharpe.

A named vote was taken.

Recommendation ii) listed in the report (Motion)	
Councillor Gurpreet Bhangra	For
Councillor Gary Muir	For
Councillor Ross McWilliams	For
Councillor Julian Sharpe	For
Councillor David Cannon	For
Councillor John Baldwin	For
Councillor Mandy Brar	For
Councillor Karen Davies	For
Councillor Jon Davey	For
Councillor Geoffrey Hill	For
Councillor Sayonara Luxton	For
Carried	

RESOLVED UNANIMOUSLY: That the Licensing Panel:

- i) **Agreed the changes to the policy set out in Table 1B in respect of checks on driver applicants' right to work in the UK.**

The Panel moved on to the third recommendation listed in the report.

Greg Nelson outlined the changes to penalty points which could be offered to hackney carriage drivers for any infringements. Penalty points could be imposed by a licensing enforcement officer, this would be points on their RBWM hackney carriage license rather than DVLA points. They were generally issued for small infringements, with either three, six or twelve points issued. If twelve unspent points were acquired, the case was referred to the Appeals Panel to decide what action was required.

Councillor Hill felt that a number of the examples where points could be given to drivers was open to interpretation, particularly the number of points that could be given. For example, disorderly behaviour was very generic and hard to distinguish what was the correct amount of points that should be issued.

Greg Nelson understood these comments, the reason for the broad number of points that could be issued was due to the varying circumstances where an issue could occur. All points were appealable, officers needed to justify themselves.

Councillor Baldwin asked for confirmation that the number of points per offence had not changed, the only changes were to the wording of the policy.

Greg Nelson confirmed that this was correct.

Councillor Baldwin said that notification was required in writing, if this was a challenge would hackney carriage drivers be able to gain assistance from the council. Councillor Baldwin believed that the penalty points should not be for breaches of the law, but a number did and therefore it seemed like a double punishment.

Greg Nelson explained that the penalty points were designed to cover the more minor infringements but some offences were replicated under the law. Legal advice had clarified that there could be a duplication, this had been used for a number of years. The requirement for things to be in writing was so that it avoided any issues of miscommunication between the council and hackney carriage drivers. Greg Nelson confirmed that assistance could be provided if it was needed.

Councillor Baldwin commented on offences which needed to be reported within 7 days, but it was an ongoing issue, then the penalty points would not apply.

Greg Nelson understood the point, having the availability of points as a method did have its issues. The system was transparent and allowed the council to deal with issues that came up and avoided going through criminal prosecution.

Councillor Cannon said that RBWM was not a prosecuting authority, there was a requirement for some older vehicles to have an MOT every six months. This was a council requirement and not a legal one. The Panel needed to have confidence in the professionalism of officers when penalty points were handed out. Officers had the choice of three, six or twelve points. Councillor Cannon believed that the number of points given to a driver that did not carry a fire extinguisher or first aid box should be more than the current three point penalty.

Councillor Davies said that she was supportive of the current system, she asked if there was any guidance for officers so that they could make fair and consistent decisions when penalty points were issued.

Greg Nelson said that officers had considered whether appeals for penalty points needed to go to a Panel of Councillors, there was a process in place where it could be heard by a senior officer. Some hackney carriage drivers appealed any points received, this was their right but it meant that Panels were being convened regularly which was not the best use of the council's time.

Councillor Davies asked if there was anything that could be referred to when officers made decisions.

She was informed that all decisions needed to be evidence based and proportionate. The appeal would be set up and the Panel would hear both sides, before making a judgement.

Councillor Luxton queried the change to an individual being allowed to drive a hackney carriage without the correct license and what the number of points for this offence would be.

Greg Nelson confirmed that it was a 12 point penalty, the license would not be revoked immediately, that was a decision for a sub committee of the Licensing Panel to decide. The penalty point system ran alongside the powers officers had to revoke or suspend a license.

Councillor Sharpe believed that the council needed to be supportive of the taxi drivers, they were currently operating in a difficult environment. The facility to impose points was a useful if it was required.

Greg Nelson said that the vast majority of drivers were excellent and did a good job. They were not RBWM employees but the council wanted to ensure high standards for its residents.

Councillor Baldwin commented that there would be no consultation on these changes, if the Panel agreed them they would come into force almost immediately. He asked if any incidents would be considered from the past in retrospective action.

Greg Nelson confirmed that no retrospective action would be taken, taxi drivers would be consulted on the changes. The authority was the regulator, therefore the council should decide what it wanted to do before consulting with the drivers.

Councillor Davey asked for six and nine penalty points, would officers consult with a more senior officer to make sure that the correct decision had been made.

Greg Nelson explained that there were four licensing officers and a team leader, the team leader would be involved in the discussions if required.

Councillor Davies asked if there were any views on the proposals from hackney carriage drivers.

Greg Nelson said that there was a balance between public safety, how the drivers came across and doing their job professionally. Officers believed that the sanctions were proportionate and fair.

Councillor Hill asked why the number of penalty points that could be given was either three, six or twelve.

Greg Nelson was not sure of why this was the case. For the incidents where a sanction of 1-12 points was listed, he was happy to change this to three, six, nine or twelve points.

Councillor Cannon said that no Members had suggested any changes to the proposals which had been recommended by officers. It was important that the council engaged with its drivers but that it retained its clear position as the regulator.

The recommendation was proposed by Councillor Davey and seconded by Councillor Cannon.

A named vote was taken.

Recommendation iii) listed in the report (Motion)	
Councillor Gurpreet Bhangra	For
Councillor Gary Muir	For
Councillor Ross McWilliams	For
Councillor Julian Sharpe	For
Councillor David Cannon	For
Councillor John Baldwin	For
Councillor Mandy Brar	Abstain
Councillor Karen Davies	For
Councillor Jon Davey	For
Councillor Geoffrey Hill	For
Councillor Sayonara Luxton	For
Carried	

RESOLVED: That the Licensing Panel:

- i) **Agreed to the changes to the policy in respect of penalty point infringements as set out in Table 1C.**
- ii) **Agreed that a consultation with the trade should be carried out before these changes were formally adopted.**
- iii) **Agreed that once the consultation process had been completed, the final decision on implementing the changes was delegated to the Head of Housing, Environmental Health & Trading Standards in consultation with the Licensing Panel Chairman and the Cabinet Member for Anti-Social Behaviour, Crime and Public Protection.**
- iv) **Agreed that for all penalty points which were listed as ranging from 1-12 points, the Trading Standards & Licensing Manager would amend these to be either a three, six, nine or twelve point sanction.**

DATES OF FUTURE MEETINGS

The next meeting was due to take place on Tuesday 25th October 2022, starting at 6pm.

The meeting, which began at 6.00 pm, finished at 7.40 pm

CHAIRMAN.....

DATE.....