

LICENSING PANEL

MONDAY 16 OCTOBER 2023

Present: Councillors Mandy Brar (Chair), Kashmir Singh (Vice-Chair), Clive Baskerville, Jack Douglas, Siân Martin, Julian Sharpe, John Story and Mark Wilson

Officers: Oran Norris-Browne and Greg Nelson

Apologies for Absence

Apologies for absence were received from Councillor Gosling, with Councillor Sharpe attending as substitute. Councillor Hill had also submitted apologies.

Declarations of Interest

No declarations of interest were made.

Minutes

AGREED: That the minutes of the meeting held on Tuesday 5 July 2022 were a true and accurate record.

Minutes of Licensing and Public Space Protection Order Sub Committees

The panel noted the minutes.

DBS Checks on RBWM Licensed Drivers

Greg Nelson, Trading Standards and Licensing Manager outlined the report that was before the Panel. He stated that the report concerned the criminal records checks that officers carried out on licenced hackney carriage (HC) and private hire (PH) drivers. This was part of the Borough's tests to see whether a driver was "fit and proper", as set out in legislation, to have such a license. A licensing authority carry out criminal records checks on licenced drivers, and new applicants for a licence, via the Disclosure and Barring Service, or DBS, formerly known as the Criminal Records Office. He said that at present, checks on existing drivers' DBSs were carried out every three years although other checks could be carried out as and when necessary.

Greg Nelson said that based on government requirements, the report sought changes to the process so that existing drivers' DBSs were checked every six months. This would tie in with a move away from a paper-based DBS application process to an online process, in which RBWM was currently undergoing. The background to this, was the introduction in 2020 of the Department of Transport's Statutory Taxi & Private Hire Vehicle Standards. The aims of this were to raise standards of public safety and protection in the HC and PH trades and to ensure that there was a consistent approach taken across the country in considering whether a driver was fit and proper to hold a licence. Licensing authorities were obliged to adopt the provisions of the Standard unless there were compelling local reasons not to do so. He then said that the borough adopted most of the requirements of the Standard in 2021 and this was followed by a review of existing licence holders to make sure that they complied with the requirements of the new Standard.

Greg Nelson made it clear to the panel that the obligation was on the licensing authority to carry out the six-monthly DBS checks on current licence holders, it was not an obligation on the drivers to produce a new DBS every six months. However, there was an obligation on the

drivers for them to register with the DBS update service and allow the borough access to that service so that the checks could be carried out. He added that the borough was currently in the process of moving away from a paper-based DBS process to an on-line process. He referred to paragraphs 2.12 to 2.14 of the report, which stated that the process would be cheaper for drivers in the long run and far more efficient than the current paper system.

Greg Nelson then ended his submission by outlining the recommendations that were available for the panel to consider and vote on.

The Chair thanked Greg Nelson and invited Mr Sabir to address the panel as a registered speaker. He addressed the panel for 3 minutes.

Councillor Douglas asked what the borough's policy was on DBS checks and whether or not they were purely conviction related. Greg Nelson replied by saying that one of the elements of the Department of Transport's (DoT) Standard that the borough adopted in 2021, was that the borough were asked to make retrospective checks on existing drivers. The fit and proper test became a lot stricter, and for example, if a driver had a record of an offence of violence, the previous policy stated that the licencing authority would not consider that driver for 5 years. However, this was now 10 years under the new process. Any records of sexual violence meant that a driver would not be licenced at all. Each existing driver who this impacted was assessed on an individual basis, to which there was a very small number. Some licences were revoked, with some appeals still ongoing.

Greg Nelson added that if there was an accusation against a driver, action would not be taken against a driver unless there was evidence to base this on. The authority had a very good relationship with Thames Valley Police, with information being passed on between parties.

Councillor Baskerville wished to make clear the reasons behind why this was being proposed to come into effect and that it was the national government who were bringing this forward. Greg Nelson said that all local authorities were required to adopt all of the standards unless there were compelling reasons not to. The borough found no compelling reasons to not adopt them, hence why they were adopted.

Councillor Baskerville then asked if the licensing team had enough staff members to carry out the 6 monthly checks for over 1,000 RBWM licensed drivers. Greg Nelson replied by saying that they were extremely stretched, however if the annual fee and the automated process was adopted by the Licensing Panel, then this would assist in easing the burden on the licencing team.

Councillor Baskerville asked about cameras being installed into vehicles. Greg Nelson confirmed that not all vehicles had CCTV cameras installed in the borough's vehicles as this came at a cost to the drivers. The borough had previously decided not to make it a mandatory addition.

Councillor K Singh asked if the law had been passed already and how long the authority had to implement it. Greg Nelson confirmed it was not a piece of law, however the DoT would expect a report within 1 or 2 years as to how the authority had gotten on with the implementation.

Councillor Sharpe asked about the Council's legal liability and what the penalty was if the Council did not adopt the standard. Greg Nelson said that the DoT had already asked the borough how they had gone about making changes. There was no direct penalty or action that the DoT could take against the borough if they had not implemented the changes. Councillor Sharpe said that taxi drivers were very important, however so was the safety of the borough's residents. Greg Nelson agreed with his comments.

Councillor Story asked if the drivers were obligated to use the new automated system. Greg Nelson said that the borough had the obligation to carry out the checks every 6 months,

however it was the driver's responsibility to allow the borough access to this. The borough could not force the drivers to do this, however it would be a lot easier to do so with new drivers, as it was the start of the process. Councillor Story also agreed with the comments made by Councillor Sharpe.

Councillor Wilson said that online systems were fairly reliable, but asked what protection existed to ensure that no issues occurred with it. Greg Nelson said that the company being suggested was recognised by the DBS and the Home Office, and therefore had a high level of data security.

Councillor Wilson said that if the drivers signed up to the 6 monthly DBS check, what incentive would be provided. Greg Nelson said that this would be covered in the consultation process and that it would be a benefit overall to drivers.

The Chair then gave clarity as to the costs that were being proposed to the drivers.

Councillor Douglas asked if he could propose a change in wording to recommendation ii) within the report with the addition of the words 'and residents'. This was accepted as a reasonable amendment by Greg Nelson and the Panel.

Councillor Sharpe sought further clarity over the cost to the drivers and what access this gave the borough. Greg Nelson said that unless mandated within the policy, then theoretically the drivers could decide not to pay the fee, which would then need to be paid by the Council.

Councillor K Singh asked if the fee could be left out of the proposal and if the policy could just state that all new and existing drivers must sign up to the system, for efficiency purposes. Greg Nelson said that without changing policy, drivers would be pushed towards the online system more so.

Oran Norris-Browne, Principal Democratic Services Officer, read out the motion that had been put forward by officers as per section 1 of the report, with the amendment that Councillor Douglas had made.

A motion was put forward by Councillor K Singh to accept the officer recommendations as set out in the report with the addition 'and residents' being included in ii). This was seconded by Councillor Wilson.

A named vote was taken.

DBS Checks on RBWM Licensed Drivers (Motion)	
Councillor Mandy Brar	For
Councillor Kashmir Singh	For
Councillor Clive Baskerville	For
Councillor Jack Douglas	For
Councillor Siân Martin	For
Councillor Julian Sharpe	For
Councillor John Story	For
Councillor Mark Wilson	For
Carried	

AGREED: That the Licensing Panel noted the report and:

- i) **Agreed in principle that the current RBWM Hackney Carriage Driver and Vehicle Policy & Conditions and the RBWM Private Hire Driver and Vehicle Policy & Conditions be amended to require that all RBWM licenced hackney carriage and private hire drivers enable the Licensing team to check their DBS for new information every six months,**

- ii) **Agreed that this should be consulted on with licenced drivers, operators all interested parties and residents to determine how this was best achieved, and**
- iii) **Agreed that final recommendations to introduce the six-monthly DBS checks were brought to the next Licensing Panel on 13 February 2024 for final implementation.**

Hackney Carriage Livery - Options for Change for Electric and Hybrid Vehicles

Greg Nelson outlined the second report that was before the panel. He began by stating that the current requirement was that the HCs were white with a purple bonnet and boot, and a large RBWM coat of arms on the sides of the vehicle. This was introduced in 2012 and failure to comply, was a contravention of the Hackney Carriage Driver and Vehicle Policy & Conditions, which could result in enforcement action being taken against the driver or owner of the vehicle. He referred the panel to paragraphs 1.3 to 1.6 of the report which set out the history of why the livery was first introduced, the fact that it was not popular with the HC drivers, and that successive borough administrations had wanted to keep it.

Greg Nelson then addressed the government recently moving the ban on the sale of new petrol and diesel cars in the UK from 2030 to 2035. He said that over the next few years, the borough would need to consider how they move the vehicles that were licenced, away from fossil fuel to hybrid or electric power, and that this would need a considerable lead in time to allow drivers to plan ahead. He added that as a first step, it could present an opportunity to allow some changes or relaxation of the current livery requirements for drivers who decide now to move from using a fossil fuelled vehicle to an electric or hybrid vehicle. The RBWM Hackney Carriage Driver and Vehicle Policy & Conditions could be amended such that the livery requirement was changed, reduced, or removed entirely for electric or hybrid vehicles. This would not only remove the objections that the drivers had to the livery and also encourage them to move to an electric or hybrid vehicle. He then outlined some key factors which would have to be taken into account, along with a considerable amount of research.

Greg Nelson then ended his submission by outlining the recommendations that were available for the panel to consider and vote on.

The Chair thanked Greg Nelson and invited Mr Sabir, Mr Jaffri and Mr Yasin to address the panel once at a time as a registered speaker. They were each given 3 minutes.

Councillor Wilson thanked the speakers for their comments and contribution. He noted the transition to lower emissions and also the provision of EV charge points within the borough. He then said that it was important to have something on the vehicles to distinguish them from other vehicles. Wheelchair access was also very important and asked if anything could be relaxed in the future with regards to the requirements of these.

Councillor Martin said that she would support a new livery, but agreed with Councillor Wilson that they should still have one. She asked for clarity on the move away from diesel vehicles to electric. Greg Nelson said that this was something that would be brought back to the Licensing Panel to decide upon.

Councillor K Singh asked if there could be a pros and cons list for the livery. He asked if someone was to buy a new petrol or diesel car before 2035, what would this mean for drivers. Greg Nelson said that if the vehicle was able to operate past 2035, then it still could operate, however he asked if the borough would want these cars to still have the livery on it. The drivers would need a lot of time given to them to allow them to fully assess their options.

Councillor Story asked for ii) of the recommendations made by officers to include the words 'with users' within it, to put residents at the front and centre of the recommendations. This was agreed by the officer.

Councillor Douglas wanted it to be made clear that this was a long-term plan and there was no expectation of early take-up.

Councillor Wilson asked when the current policies for livery and wheelchair use was last reviewed and put into place. Greg Nelson replied by saying that the livery came into effect in around 2012 or 2013. Since 2016, it had been brought to the Licensing Panel once in around 2018, but not since. The wheelchair accessibility policy was introduced in around 2018 or 2019 and had not come back to panel since.

Councillor Wilson asked if the borough was at a point now to look back at the policy for all vehicles, whilst the consultation was going to be put in motion. Greg Nelson said that he could certainly discuss that offline with the Chair, Vice-Chair and the relevant Cabinet Member.

Councillor Martin said that a budget should be agreed with the drivers and then the designer of the livery could then work within that realm.

Councillor Douglas wished to make sure that electric vehicles and hybrid vehicles were not grouped together. This was due to the environmental benefits of hybrid vehicles, being a lot more disputed than that of electric ones. Greg Nelson said that all possibilities would be taken into consideration.

Councillor K Singh said that it was important to have some sort of livery as persons who were not residents, could clearly identify a vehicle for them to use. Greg Nelson agreed and said that the passenger certainly needed to be put at the forefront, with public safety being prioritised.

Councillor Sharpe said that it was important that the correct vehicle was being use for the exact journey. The drivers should be encouraged to use the right sort of vehicle and suggested different costs depending on what vehicle was being used, such as diesel or electric.

A motion was put forward by Councillor K Singh to accept the officer recommendations as set out in the report with the addition of the words 'with users' in ii), along with 'electric and hybrid vehicles' being changed to 'any vehicles'. This was seconded by Councillor Baskerville.

A named vote was taken.

Hackney Carriage Livery - Options for Change for Electric and Hybrid Vehicles (Motion)	
Councillor Mandy Brar	For
Councillor Kashmir Singh	For
Councillor Clive Baskerville	For
Councillor Jack Douglas	Against
Councillor Siân Martin	For
Councillor Julian Sharpe	For
Councillor John Story	For
Councillor Mark Wilson	For
Carried	

AGREED: That the Licensing Panel noted the report and:

- i) Agreed that research should be conducted into the availability and cost of electric, hybrid hackney carriages and all other vehicles, and whether the models available complied with requirements for wheelchair accessibility,**
- ii) Agreed that consultation should be conducted with users, hackney carriage drivers and all other interested parties as to possible changes to the livery on any licensed vehicles, and**
- iii) Agreed that the results of the research, the consultation and options for changes to the livery on licensed vehicles, be brought to the next Licensing Panel meeting on 13 February 2024**

The Chair wished to bring some any other business items to the attention of Greg Nelson. These were:

- The availability of space at the Windsor Castle Taxi Rank due to other drivers using it
- The loss of space at the Windsor Castle Taxi Rank and if the original rank could be brought back.
- An organised trip for the Chair, Vice-Chair, and relevant Cabinet Member to visit taxi ranks, and to meet the drivers.

Greg Nelson thanked the Chair and the drivers for bringing this to his attention. Drivers found doing this had been given formal cautions and that the team's relationship with Transport for London was very good. The loss of space was a difficult subject as the temporary pavement had now been made permanent, which in turn had now reduced the space. Greg Nelson admitted that there may not be much he could do about this, however he would endeavour.

The meeting, which began at 6.02 pm, finished at 7.38 pm

CHAIR.....

DATE.....