

Notice of Meeting

Licensing Committee

Date: Thursday, 25 September 2014

Time: 17:30

Venue: Conference Room 1, (Beech Hurst), Beech Hurst, Weyhill Road,
Andover, Hampshire, SP10 3AJ

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Legal and Democratic Service

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The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Membership of Licensing Committee

MEMBER

Councillor A Hope
Councillor J Anderdon
Councillor I Andersen
Councillor A Beesley
Councillor A Brook
Councillor J Budzynski
Councillor M Cooper
Councillor B Few Brown
Councillor A Finlay
Councillor K Hamilton
Councillor A Johnston
Councillor P Lashbrook
Councillor N Long
Councillor I Richards
Councillor A Tupper

Chairman
Vice Chairman

WARD

Over Wallop
Chilworth, Nursling &
Rownhams
St.Mary's
Valley Park
Alamein
Winton
Tadburn
Amport
Chilworth, Nursling &
Rownhams
Harroway
Romsey Extra
Penton Bellinger
St.Mary's
Abbey
North Baddesley

Licensing Committee

Thursday, 25 September 2014

AGENDA

**The order of these items may change as a result of members
of the public wishing to speak**

- 1 Apologies**
- 2 Public Participation**
- 3 Declarations of Interest**
- 4 Urgent Items**
- 5 Minutes of the meeting held on 6 May 2014**
- 6 Hackney Carriage Licensing - Future Policy 4 - 11**

A report recommending action regarding the Council's existing policy relating to the number of hackney carriage licences.
- 7 Revocation of a Dual Driver's Licence 12 - 14**

This report notes that the Head of Administration has used his delegated powers to revoke a Hackney Carriage and Private Hire Vehicle Driver's Licence.
- 8 Scheme of Delegations to Officers 15 - 15**

This report seeks to approve the Council's Scheme of Delegations to Officers as amended
- 9 Licensing Sub Committee 16 - 17**

This report seeks to re-appoint the membership of the Licensing Sub-Committee

ITEM 6 Hackney Carriage Licensing – Future policy

Report of the Head of Administration (Portfolio: Corporate)

Recommended:

- 1. With immediate effect the Head of Administration make available for grant a further five additional hackney carriage vehicle licences but only for vehicles which meet the conditions set out in the Annex attached to this report.**

- 2. That a further report on the matter is submitted to this Committee at such time as either all five licences have been issued or there is a change in legislation affecting the Council’s ability to restrict licence numbers, whichever is soonest.**

SUMMARY:

- The Borough Council continues to be in a minority of authorities that restricts the number of hackney carriage licences it issues.

- Following consideration of this matter at the meeting of this Committee held on 19 September 2013, a decision was made to issue five additional hackney carriage licences but only for vehicles meeting agreed quality control measures.

- These licences have now been issued and so the Borough Council must re-visit its current policy. Officers recommend the issuing of a further five licences subject to previously agreed quality control measures.

1 Introduction

- 1.1 The Council currently restricts the number of hackney carriages (taxis) it licences. Such a restriction can only be imposed if the Council believes that there is no significant unmet demand for hackney carriages within the Borough. An independent survey undertaken in 2005 and reported to this Committee in 2006 indicated that there was unmet demand but rather than remove all restrictions, licence numbers should be increased and then reviewed after a period of time. This process is known as ‘managed growth’. Since then this Committee has received further reports on the matter.

- 1.2 In September 2013 this Committee received a report on the subject and decided to make available as from October 2013 five additional licences for wheelchair accessible vehicles less than a year old and meeting certain other criteria. These licences have all now been issued and so it is necessary to re-visit the subject.

- 1.3 At present the authority licences 41 taxis of which 2 operate in the Romsey area; neither of these are wheelchair accessible vehicles. Of the remaining 39 that operate in the Andover area 17 are wheelchair accessible vehicles. It is the view of officers that provision of a greater number of wheelchair accessible vehicles remains the priority in terms of taxi provision within the Borough and an ideal situation would be if a minimum of 50% of the taxi fleet comprised wheelchair accessible vehicles.

2 Background

- 2.1 In 2004 the Department for Transport (DfT) wrote to all Councils in England and Wales which still restricted licences asking that restrictions be reviewed and the results reported back to the DfT. The clear implication from the DfT was that if Councils wished to retain a restriction then they could only do so if it was in the public interest not to de-restrict licence numbers. The government's policy on the subject remains the same namely that:

- In the Government Action Plan for Taxis (and Private Hire Vehicles) restrictions should only be retained where there is shown to be a clear benefit for the consumer.
- Councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached.
- Unless a specific case can be made, it is not in the interests of consumers for market entry [to the taxi trade] to be refused to those who meet the application criteria.

- 2.2 The government recommends that a regular, ideally triennial, survey of unmet demand be undertaken. Officers had originally put forward a bid for sufficient budgetary provision for a survey to be undertaken in 2009-10 but due to the Council's financial situation, this bid was rejected and officers were asked to consider other means of reviewing the current policy. In the absence of a survey, officers have undertaken consultation exercises (the most recent being mentioned in paragraph 4 below), albeit that the results have been limited. The absence of a current survey is only an issue if the Council was to impose a restriction upon issuing licences.

3 Corporate Objectives and Priorities

- 3.1 None; the licensing of hackney carriages is a statutory function of the Borough Council. Licensing of hackney carriages reduces the potential for illegal plying for hire by unlicensed vehicles and also licensed private hire vehicles. It provides transport for the public who may not have any safe alternative means of transport available to them. The service provided by the hackney carriage trade plays a key role in the provision of an integrated public transport system. Decisions taken by the Council should be approached in the interests of the travelling public.

4 Consultations/Communications

- 4.1 No additional consultation has been undertaken beyond that undertaken in early 2013 and reported to this Committee in September 2013.
- 4.2 Unfortunately there is no current information regarding the national situation but as of April 2012, 86 (or 26%) of the 343 licensing authorities in England and Wales including Test Valley had a numerical restriction on the number of hackney carriage licences issued. Within Hampshire the position is as follows:

Council	Hackney carriages	Numbers restricted?	Ratio of hackney carriages to population**
Basingstoke & Deane	65	No	1:2585
East Hampshire	99	No	1:1168
Eastleigh	103	No	1:1219
Fareham	227	No	1:491
Gosport	61	No	1:1351
Hart	150	No	1:609
Havant	40	Yes	1:3004
New Forest	139	No	1:1263
Portsmouth	234	Yes	1:877
Rushmoor	136	No	1:690
Southampton	283	Yes	1:842
Test Valley	41	Yes	1:2873
Winchester	113	No	1:1034

** 2013 Hampshire County Council Small Area Population Forecasts

It can be seen therefore that Test Valley residents are not well served by the number of hackney carriages available to them in comparison with the residents of neighbouring authorities. Whilst there is no guide figure as to the ideal number of hackney carriages per head of population, Kielder Newport West Limited who undertook the unmet demand survey for the Council in 2005 suggested that an average ratio was one hackney carriage for every thousand persons.

5 Options

- 5.1 As when the Committee last considered this matter, there are a number of options available.
- (a) In theory it could maintain the existing policy of restricting licence numbers and agree not to release any further licences at this time.
 - (b) It could issue a number of licences either immediately or over a periodic basis to satisfy any unmet demand (managed growth).
 - (c) Alternatively it could remove numerical restrictions on hackney carriage licences completely and opt for total delimitation meaning that there are no restrictions as to how licences are granted.

- (d) Finally, it could opt for total delimitation subject to a policy which supports quality control mechanisms.

6 Option Appraisal

- 6.1 By adopting option (a), the Committee are restricting the number of licences available and as such, an unmet demand survey would need to be undertaken to defend our position should a licence application be received. As has been mentioned, funding to undertake a survey is unavailable and so this option is not considered viable. By adopting a new policy of ‘managed growth’ (option (b)) the Council would be following the recommendations of the independent survey albeit that the survey was conducted over eight years ago and thus it is questionable if the survey results are still reliable and relevant. If this option was pursued, it would be necessary to review the policy at a future date and particularly once all additional licences have been issued.
- 6.2 Options (c) and (d) involve removing any current numerical restriction upon the number of licences. There is the potential for dissatisfaction within the existing taxi trade due to extra competition if additional licences are issued, particularly if option (c) is pursued. Also, there is the likelihood with this option that de-restriction may result in a sudden increase in the numbers of hackney carriages (possibly by 100% or more). Such an increase would be difficult to administer within existing resources and might make enforcement problematic with the result that there may be a reduction in the current high standards of vehicles and drivers. Members are reminded that public safety is the primary licensing test not that of employment or business related issues.
- 6.3 Such problems could be overcome if option (d) were pursued whereby de-restriction is accompanied by additional requirements e.g. only licensing wheelchair accessible vehicles, or vehicles of a certain age or type. This is the preferred approach of officers but it is acknowledged that current proprietors and members of this Committee have previously expressed concerns over the impact of complete de-restriction (even if criteria are attached).
- 6.4 Consequently officers are minded to recommend that the Borough Council again pursues option (b) provided the licences are subject to the conditions set out in the Annex attached to this report. Officers believe that this option is the most preferred in that it continues to provide an opportunity to those wanting to enter the trade without potentially flooding the trade with additional vehicles (thus allaying the fears of existing proprietors). Importantly it has the potential to increase yet further the provision for wheelchair users requiring a wheelchair accessible taxi. It is significant to note that there are now an additional six purpose-built wheelchair accessible vehicles available to the public and officers have received further enquiries from prospective proprietors wishing to license similar vehicles.
- 6.5 It is important to state that these conditions set out in the Annex will not apply to the existing original 35 hackney carriage licences already issued and these vehicles will continue to be replaced on a “like for like” basis.

The commercial premium associated with hackney carriage proprietor licences is something that the Borough Council has no control over. This “like for like” approach may help to preserve some of the value of the licence plate thus appealing to the existing proprietors. Adoption of this approach will hopefully result in the creation of a mixed fleet of licensed vehicles including saloon cars, multi-purpose vehicles and purpose built wheelchair accessible vehicles thus giving the public a choice of vehicle.

- 6.6 As reported to this Committee in September 2013 there is the further matter of the Law Commission review of taxi licensing law. The Commission was asked by the Government to undertake a review and initial expectations were that the Commission would recommend removing the ability for Councils to restrict hackney carriage licence numbers. A final report issued by the Commission makes it clear that they have decided to recommend that those Councils who wish to restrict numbers are allowed to continue to do so. However, it remains to be seen whether the Government will agree with this approach and a draft Bill expected in November 2013 has yet to be published. Adopting option (b) addresses the potential demand from licence applicants without committing the Borough Council to a policy which could not subsequently be reviewed and revised.

7 Resource Implications

- 7.1 Adopting option (a) would still require an unmet demand survey to be undertaken as mentioned above there is no funding available for such. Adopting option (c) as mentioned may produce a sudden increase in the numbers of licensed vehicles and place a sudden demand upon existing resource levels which potentially could not be met. By adopting option (b), any increase in the number of vehicles is limited and as such will have little if any impact upon existing resource levels.

8 Legal Implications

- 8.1 As has been stated previously, the Council can only maintain its current policy of restricting licence numbers on the basis of an up to date unmet demand survey. The last survey did indicate unmet demand although, increasingly, the survey results cannot be relied upon as justification for our current policy as they become more and more out of date. Members should be aware that the additional five licences made available following the decision of this Committee in September 2013 have all now been issued and the Council has at least a further two prospective hackney carriage proprietors who have enquired about the availability of hackney carriage licences. If the Council were to deny these persons the opportunity of applying for a licence it is possible that one or more of them may launch a legal challenge and as previously mentioned the Council would be unable to defend such a challenge.
- 8.2 The proposed policy recommended in this report, namely that of managed growth linked to a policy of quality control has not been challenged where other local authorities have taken such a course of action. Therefore the approach recommended in this report is considered to be lawful.

9 Equality Issues

- 9.1 Adoption of the recommendations does not constitute a change in Council policy as it will merely repeat the decision of this Committee made at its meeting in September 2013. Adoption of the recommendation would produce a benefit in that potentially it increases the provision of wheelchair accessible vehicles in the Borough thus benefiting wheelchair users.

10 Other Issues

- 10.1 Community Safety – none apart from that mentioned in 3.1 above.
- 10.2 Environmental Health/Sustainability Issues – the provision of hackney carriages may lead to slightly less reliance upon private motor vehicles, although the effects are more difficult to quantify.
- 10.3 Property Issues – none.
- 10.4 Wards/Communities Affected – none directly but indirectly the whole Borough particularly Andover town and the surrounding environs.

11 Conclusion

- 11.1 The Council continues to retain a policy of restricting hackney carriage licences. At its last consideration of this matter this Committee decided to make available a further five licences. These licences have now been issued and the Council must now consider whether continued restriction of licence numbers is viable. Whilst de-restriction is perfectly reasonable and lawful, concerns have been raised by existing proprietors and some members. However, there are potential applicants waiting who if denied an opportunity of applying for a licence may launch legal action. Consequently officers recommend repeating the previous decision of this Committee by issuing a limited number of additional licences, subject to them being combined with a policy of quality control.

Background Papers (Local Government Act 1972 Section 100D)

European Conference of Ministers of Transport – Improving Access to Taxis 2007

Department for Transport Consultation on Improving Access to Taxis February 2009

Reports to Licensing Committee 17 October 2006, 15 July 2009, 19 October 2010, 12 April 2012, January 2013 and 19 September 2013

Letter from Department for Transport dated 16 June 2004

Department for Transport Best Practice Guidance for local authorities: Taxi and Private Hire Vehicle Licensing October 2009

Hackney Carriage Unmet Demand and De-restriction Survey report dated 20 June 2005

Results of consultation exercise undertaken 2013

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	One		
Author:	Michael White	Ext:	8013
File Ref:	MW/D.8/1		
Report to:	Licensing Committee	Date:	25 September 2014

ANNEX

Proposed terms and conditions linked to hackney carriage proprietor licences issued after 1 October 2013

All new hackney carriage proprietor licences issued after 1 October 2013 will only be released subject to the following terms and conditions. These terms and conditions must be read in conjunction with Test Valley Borough Council's standard hackney carriage vehicle licence conditions and complied with prior to a hackney carriage proprietor licence being issued.

1. The vehicle shall display Council approved accessible vehicle signage.
2. Vehicles must hold either, European Whole Vehicle Type Approval, European Small Series Type Approval or National Small Series Type Approval and appropriate documentation indicating this must be made available for inspection by the Council prior to the vehicle being licensed and at any time thereafter.
3. Vehicles first presented for licensing must not be more than 12 months old from the first date of registration.
4. Vehicles presented for licensing must be fully wheelchair accessible, side loading and capable of being licensed to carry 5, 6, 7 or 8 passengers.
5. A vehicle will only be licensed where it has met the criteria set out in the above conditions. Any vehicle replacing one issued under these conditions must meet the same criteria.

ITEM 7 Revocation of a Dual Driver’s Licence

Report of the Head of Administration (Portfolio: Corporate)

Recommended:

That it be noted that the Head of Administration has suspended a Dual Hackney Carriage and Private Hire Vehicle Driver’s Licence.

SUMMARY:

- The Head of Administration has used his delegated powers to suspend a Driver’s Licence as a result of the driver failing to submit a satisfactory medical report.
- Members of the Licensing Committee have previously requested that they be informed of any occasions when refusals, suspensions and revocations occur.

1 Introduction

1.1 The Head of Administration has delegated powers to refuse applications for Hackney Carriage and Private Hire Vehicle Driver’s Licences and also to suspend or revoke such Licences once issued. In this case the suspension of the Licence issued to Mr G Wooltorton was based on the Council’s licensing policy which requires drivers to submit a satisfactory medical report (to Driver and Vehicle Licensing Agency Group 2 standards). Members of this Committee have requested that they be informed of Licence refusals, suspensions and revocations.

2 Background

2.1 For a number of years the Borough Council, in common with all other Hampshire authorities, has required Hackney Carriage and Private Hire Vehicle Drivers to meet the Group 2 medical standards set by the Driver and Vehicle Licensing Agency (DVLA). This requires applicants to submit a satisfactory medical report when they first apply for a licence, then again at the age of 45, 50, 55, 60 until 65. After this age medicals will be required annually. The driver in question had reached the age of 50 and was thus asked to submit a medical report with his application to renew his licence. Despite being sent reminders and being given some months to remedy the situation, he failed to do so. It is understood that he may no longer be driving but as a precaution Mr Wooltorton has now had his licence suspended.

- 2.2 The legislation regarding the licensing of drivers allows the Borough Council to seek additional information and specifically refers to a medical test. The policy of Test Valley Borough Council, along with the majority of licensing authorities in England and Wales, is that drivers meet the Group 2 medical standards set by the Driver and Vehicle Licensing Agency (DVLA) which is the standard applied to coach, lorry and bus drivers. Without a satisfactory medical report, the Borough Council cannot meet the requirement laid down in the legislation of being “satisfied that the applicant is a fit and proper person to hold a driver’s licence”.

3 Corporate Objectives and Priorities

- 3.1 None; the licensing of Hackney Carriage and Private Hire Vehicle Drivers is a statutory function of the Borough Council. In deciding whether to grant a licence, the overriding consideration will be the protection of the public. As Hackney Carriage and Private Hire Vehicle Drivers are employed in a position of trust and may often carry unaccompanied passengers, the Council’s policy is that applicants meet a number of requirements including provision of a satisfactory medical report to DVLA Group 2 standards.

4 Consultations/Communications

- 4.1 None, other than communications to the driver concerned.

5 Options

- 5.1 There are no alternative options as the Council’s licensing policy states that drivers are required to meet the DVLA Group 2 medical standards.

6 Resource Implications

- 6.1 There are no resource implications as a result of this report.

7 Legal Implications

- 7.1 In accordance with the legislation, the driver had the right of appeal against the Head of Administration’s decision which should have been lodged with the Magistrates Court within 21 days of the driver being informed by the Council. No appeal was lodged

8 Equality Issues

- 8.1 An Equalities Impact Assessment was undertaken when the policy mentioned in paragraph 2.2. above was first adopted in 2007.

9 Other Issues

- 9.1 Community Safety – see 3.1 above.
- 9.2 Environmental Health/Sustainability Issues – none.
- 9.3 Property Issues – none.

9.4 Wards/Communities Affected – none specific although potentially the whole Borough.

10 Conclusion

10.1 The matter is reported to the Committee for information only so that members can be made aware that the Head of Administration has used his delegated powers.

Background Papers (Local Government Act 1972 Section 100D)

Reports to Licensing Committee 24 September 2007 and 11 October 2011

Test Valley Borough Council Hackney Carriage and Private Hire Vehicle Licensing Guidelines.

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	Nil
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File Ref:	MW/PR.12/18(2)
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Report to:	Licensing Committee	Date:	25 September 2014
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ITEM 8 **Scheme of Delegations to Officers**

Report of the Head of Legal and Democratic Services (Portfolio: Corporate)

Recommended:

That the Scheme of Delegations to Officers annexed to the report to Annual Council in so far as it applies to the powers and duties of the Licensing Committee be approved

SUMMARY:

- The purpose of the report is to approve the Council's Scheme of Delegations to Officers as amended

1 Background

- 1.1 The Scheme of Delegations to Officers is approved each year in accordance with the Constitution by Annual Council, the Cabinet and relevant Committees.

2 Resource Implications

- 2.1 None

3 Issues

- 3.1 During the course of the year since the last Annual Council, changes have occurred to the Scheme of Delegations to Officers and new delegations to Officers have been made as the need has arisen over time. These changes have been incorporated into the Scheme in the Annex to the report to Annual Council

Background Papers (Local Government Act 1972 Section 100D)

None

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	None	File Ref:	
(Portfolio: Corporate) Councillor Busk			
Officer:	W Lynds	Ext:	8412
Report to:	Licensing Committee	Date:	25 September 2014

ITEM 9

Licensing Sub-Committee

Report of the Head of Administration

Recommended:

That the membership of the Licensing Sub-Committee be comprised of three members of the Licensing Committee determined in accordance with minute 466 of Licensing Committee 27/01/05, minute 583 of Licensing Committee 20/04/06 and minute 109 of Licensing Committee 26/06/07.

SUMMARY:

- To re-appoint the membership of the Licensing Sub-Committee.

1 Background

1.1 At its January 2005 meeting (Minute 466 of 27 January refers) the Committee agreed to establish Licensing Sub-Committees comprising three members. As the Licensing Act was silent on a quorum all three members needed to be present. As a result it was also agreed

- (a) That a Sub-Committee be established comprising three members, and that the membership be drawn from a pool of members consisting of the membership of the Licensing Committee, subject to:
 - (i) as an alternative arrangement those members being selected on the basis of one Liberal Democrat and two other members, and
 - (ii) those members be selected from the Licensing Committee membership list in strict alphabetical order save when it transpires that a member has an interest as defined in the Code of Conduct or the member is a member for or lives within the ward within which an application premises is situated then the next member on the list shall be selected, subject to their availability.
- (b) That the Chairman of the Sub-Committee be rotated amongst all members of the Licensing Committee.

2 Issues

- 2.1 The Licensing Committee is asked to re-appoint the membership of the Sub-Committee on the basis set out above.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
None			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	None	File Ref:	
Officer:	T van der Hoven	Ext:	8001
Report to:	Licensing	Date:	25 September 2014