

**LICENSING REGULATORY  
COMMITTEE**

1.00 P.M.

17TH NOVEMBER 2011

**PRESENT:-** Councillors Mike Greenall (vice-chairman, in the chair), Shirley Burns, Sheila Denwood, Jonathan Dixon, Billy Hill, Tony Johnson, Tracey Kennedy and Robert Redfern

Apologies for Absence

John Harrison (chairman)

Officers in attendance:-

Wendy Peck	Licensing manager
Luke Gorst	Assistant solicitor
Rod Prentice	Licensing enforcement officer
Debbie Rose	Licensing enforcement officer
Tom Silvani	Democratic support officer

*Vice-chairman in the chair.*

***At the request of the vice-chairman the committee agreed to adjourn the meeting to enable members to view the vehicles for which hackney carriage vehicle licences had been requested (agenda items 7 and 8), and the vehicle for which the waiver of a policy requirement had been requested (agenda item 9).***

***The meeting reconvened at 1.21 p.m.***

**40 MINUTES OF THE MEETING HELD ON 13 OCTOBER 2011 (PREVIOUSLY CIRCULATED)**

The minutes were signed by the chairman as a correct record.

**41 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN**

There were no items of urgent business.

**42 DECLARATIONS OF INTEREST**

There were no declarations of interest.

***The vice-chairman advised that he had agreed to consider agenda item 12 first as Miss Robinson, who worked as a carer, was currently working and needed to leave as soon as possible.***

**43 CONFIDENTIAL ITEM:-**

In accordance with Section 100A(2) of the Local Government Act 1972, the press and public were excluded for the following item of business on the grounds that it could include the possible disclosure of confidential information.

**44 EXISTING HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCES - GAYNOR ROBINSON (PAGES 1 - 2)**

The Licensing manager introduced a report to enable members to consider what action, if any, to take in respect of Miss Robinson's hackney carriage and private hire driver's licences.

Details of the individual case and the chairman's summary of the decision are set out in confidential minute no. 44 accordance with Section 100A(2) of the Local Government Act 1972.

It was proposed by Councillor Burns and seconded by Councillor Hill:-

"That no action be taken in respect of Miss. Robinson's hackney carriage and private hire driver's licences."

Upon being put to the vote members voted unanimously in favour of the proposition, whereupon the vice-chairman declared the proposition to be carried.

***Resolved:***

That no action be taken in respect of Miss. Robinson's hackney carriage and private hire driver's licences.

***The press and public were readmitted to the meeting at this point.***

***Councillor Johnson arrived at this point.***

**45 PUBLIC SPEAKING AT COMMITTEE**

The head of Governance submitted a report in order to enable members to consider introducing public speaking rights at meetings of the committee.

The Licensing manager reminded members that the workload of the committee was divided between consideration of individual applications and more general items relating to licence conditions and licensing fees. The workload related predominantly to hackney carriage and private hire licensing, although reports on other licensing matters such as street collections and animal welfare licences were also considered from time to time.

For many years it had been the practice that when the committee was considering an individual licence that the individual licence holder to be invited to attend the meeting to make representations and to answer members' questions. The individual could be represented and was given the opportunity to call witnesses. The press and public were generally excluded from such items as confidential and personal information is considered, and the written report considered by members is not published. This procedure ensures that the interests of the individual are protected, and is compliant with the rules of natural justice and human rights legislation.

Reports on more general issues, such as licence conditions, conditions of application, licensing fees and hackney carriage fares were dealt with in the open part of the meeting when the press and public could be present. The council's constitution did not provide for

the public to speak at committee meetings. However, there were special public speaking rules for Council, Cabinet and for the Planning and Highways Regulatory Committee.

The issue had not previously been raised in respect of the Licensing Regulatory Committee, and it had always been the practice to consult with the trade through the Taxi Liaison Group and the Taxi Forum before submitting reports to the committee. It was reported that a number of the committee's members had asked whether it would be possible to allow public speaking at the committee. Officers were of the opinion that there was no reason why a procedure similar to those used at Council and Cabinet meetings should not be adopted.

The committee were advised in detail of the current public speaking scheme, as set out in the council's constitution (Rule 2.7 of the Cabinet Procedure Rules).

Members were advised that if they were minded to approve public speaking at meetings of the committee a similar scheme could be adopted. A draft scheme was attached to the report and members were advised that it was open to them to make amendments to the draft, in particular with regard to the maximum number of speakers at any meeting or on any item, and the length of time they would be permitted to speak. It was not intended that any such scheme would replace the Taxi Liaison Group or the Taxi Forum, which would continue to be the means of consulting with and seeking the views of the trade. If the scheme were adopted, members would need to consider the comments of public speakers in the context of the interests of the trade and/or the public as a whole.

Members were reminded that as a regulatory body, the committee's overriding principles had to be public protection and safety, and it would be important for the committee to balance any views expressed by speakers with the wider public interest and with the professional advice given by officers. It would also be important for proceedings to be regulated so that once the public speaking on a particular item was complete, there was no further public participation whilst the item was being debated and a decision made.

Councillor Johnson asked to clarify that all members of the public would be permitted to speak at committee meetings and that it would not be limited to members of the taxi trade. It was advised that anyone would be able to register to speak provided that they followed whatever procedure the committee should be minded to approve.

It was proposed by Councillor Burns and seconded by Councillor Hill: -

- (1) That a public speaking scheme for Licensing Regulatory Committee be implemented, and that the rules of the scheme be agreed as set out in the report.
- (2) That the committee recommend to Council that such rules be included in the constitution."

Upon being put to the vote, members voted unanimously in favour of the proposition, whereupon the vice-chairman declared the proposition to be carried.

**Resolved:**

- (1) That a public speaking scheme for Licensing Regulatory Committee be implemented, and that the rules of the scheme be agreed as set out in the report.
- (2) That the committee recommend to Council that such rules be included in the constitution.

#### 46 ARRANGEMENTS FOR ANIMAL WELFARE LICENSING

The head of Governance submitted a report to enable the committee to consider minor amendments to the scheme of delegation designed to streamline the issuing of animal welfare licences.

The Licensing manager advised members that the issuing of licences for animal boarding establishments, dog breeding establishments, riding establishments, pet shops, zoos and dangerous wild animals fell within the terms of reference of the committee.

Under the current arrangements applications were administered within the Licensing section in Governance. However, applications were then passed to the Environmental Protection Team in Health and Housing who arranged for the premises to be inspected, and advised as to whether a licence should be issued, and, if so, the terms and conditions of the licence. Their recommendations were then passed back to Licensing, who issued the actual licence.

Discussions had taken place between the two services, and it was felt that the system could be improved by transferring responsibility for the whole licensing process for these licences to Health and Housing. Officers believed that this would fit comfortably with the other animal welfare related functions already carried out by that service, and would mean that when any premises were being considered from an animal welfare point of view, licensing requirements could more readily be taken into account, and, where appropriate, any enforcement action could be more streamlined.

It was intended therefore that responsibility for all aspects of animal welfare licensing would pass to Health and Housing from 1 December 2011.

This meant that an amendment to the scheme of delegation was required to authorise the head of Health and Housing and officers designated by her to issue licences under the Animal Boarding Establishments Act 1963, Dangerous Wild Animals Acts 1970 and 1991, Pet Animals Act 1951, Breeding of Dogs Act 1973, Riding Establishments Acts 1964 and 1970 and Zoo Licensing Act 1981. The current delegation was to the head of Governance.

It was proposed by Councillor Hill and seconded by Councillor Redfern: -

- “(1) That the proposed operational arrangements for issuing animal welfare licences be noted.
- (2) That the Scheme of Delegation be amended to authorise the Head of Health and Housing and any officer designated in writing by her to grant, transfer or renew any licence under the Animal Boarding Establishments Act 1963, Dangerous Wild Animals Acts 1976, Pet Animals Act 1951, Breeding of Dogs Act 1973, Riding Establishments Acts 1964 and 1970 and Zoo Licensing Act 1981, except where any objection or adverse comment has been received or a

member of the committee has requested that the matter be referred to committee.”

Upon being put to the vote, members voted unanimously in favour of the proposition, whereupon the vice-chairman declared the proposition to be carried.

**Resolved:**

- (1) That the proposed operational arrangements for issuing animal welfare licences be noted.
- (2) That the Scheme of Delegation be amended to authorise the Head of Health and Housing and any officer designated in writing by her to grant, transfer or renew any licence under the Animal Boarding Establishments Act 1963, Dangerous Wild Animals Acts 1976, Pet Animals Act 1951, Breeding of Dogs Act 1973, Riding Establishments Acts 1964 and 1970 and Zoo Licensing Act 1981, except where any objection or adverse comment has been received or a member of the committee has requested that the matter be referred to committee.

**47 HACKNEY CARRIAGE LICENSING - REQUEST FOR A HACKNEY CARRIAGE LICENCE FOR A VEHICLE OVER 10 YEARS OF AGE ON FIRST REGISTRATION**

The Licensing manger presented a report to enable members to consider the request from Mr Ken Grieve, Miss Daryll Grieve and Miss Emily Fell to replace their existing vehicle with a vehicle which was over 10 years of age.

Prior to the meeting members had been given the opportunity to view the replacement vehicle, a Citroen C5 HDI LX.

Members were reminded that under Section 68 of the Town Police Clauses Act 1847 a District Council may attach to the grant of a licence of a hackney carriage such conditions as they may consider reasonably necessary. Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, could appeal to a magistrates' court.

For the purpose of the above, the council had established conditions attached to the grant of a hackney carriage licence. The standard licence condition provided that:

Any vehicle submitted for licensing that is 10 years old or older, or any vehicle which continues to be licensed beyond the age of 10 years must be in exceptional condition and must be approved by the Licensing Regulatory Committee, on initial application and each subsequent renewal. Any such vehicle will be subject to a full test at the Council's designated testing station every 4 months.

It was advised that on 28 October 2011, Mr Ken Grieve, Miss Daryll Grieve and Miss Emily Fell had applied to replace their existing hackney carriage, HV223, with a replacement vehicle. The replacement vehicle was a Citroen C5 HDI LX and was first registered with the DVLA on the 3 September 2001. Any vehicle which was over 10 years of age on initial licensing, in line with the condition above, must be referred to the Licensing Regulatory Committee for approval.

Mr Grieve, Miss Daryll Grieve and Miss Emily Fell had been invited to attend the meeting to make representations, however they were not in attendance at the meeting.

Members were asked to consider whether they were satisfied to allow the applicants' request to licence a hackney carriage vehicle over 10 years of age. It was advised that should members be minded to allow this application the vehicle would still be required to pass the vehicle compliance test at the council's Vehicle Maintenance Unit prior to licensing.

Members queried whether the towbar on the rear of the vehicle would present a problem when the vehicle was presented for the vehicle compliance test. It was advised that if the towbar was deemed to be dangerous it would have to be removed from the vehicle.

It was proposed by Councillor Burns and seconded by Councillor Kennedy: -

"That the applicants request for a replacement vehicle which is over 10 years of age on initial licensing be approved."

Upon being put to the vote, 6 members voted in favour of the proposition, with 1 against, whereupon the vice-chairman declared the proposition to be carried.

***Resolved:***

That the proposed operational arrangements for issuing animal welfare licences be noted.

**48 HACKNEY CARRIAGE LICENSING - REQUEST FOR A HACKNEY CARRIAGE LICENCE FOR A VEHICLE OVER 10 YEARS OF AGE ON FIRST REGISTRATION - CHRISTOPHER LEE**

The Licensing manager presented a report to enable members to consider the request from Mr Christopher Lee to replace his existing vehicle with a vehicle which was over 10 years of age.

Prior to the meeting members had been given the opportunity to view the replacement vehicle, a Peugeot 406.

Members were reminded that under Section 68 of the Town Police Clauses Act 1847 a District Council may attach to the grant of a licence of a hackney carriage such conditions as they may consider reasonably necessary. Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, could appeal to a magistrates' court.

For the purpose of the above, the council had established conditions attached to the grant of a hackney carriage licence. The standard licence condition provided that:

Any vehicle submitted for licensing that is 10 years old or older, or any vehicle which continues to be licensed beyond the age of 10 years must be in exceptional condition and must be approved by the Licensing Regulatory Committee, on initial application and each subsequent renewal. Any such vehicle will be subject to a full test at the Council's designated testing station every 4 months.

On 8 November 2011 Mr Lee had applied to replace his existing hackney carriage, HV284, with a replacement vehicle. The replacement vehicle was a Peugeot 406 and had

first been registered with the DVLA on 10 April 2001. It was required that any vehicle over 10 years of age on initial licensing, in line with the condition above, must be referred to the Licensing Regulatory Committee for approval.

Mr Lee has been invited to attend the meeting to make representations, however he was not in attendance.

Members were asked to consider whether they were satisfied to allow the applicants' request to licence a hackney carriage vehicle over 10 years of age.

It was advised that should members be minded to allow this application the vehicle would still be required to pass the vehicle compliance test at the council's Vehicle Maintenance Unit prior to licensing.

It was proposed by Councillor Kennedy and seconded by Councillor Dixon: -

"That the applicants request for a replacement vehicle which is over 10 years of age on initial licensing be approved."

Upon being put to the vote, 6 members voted in favour of the proposition, with 1 against, whereupon the vice-chairman declared the proposition to be carried.

***Resolved:***

That the proposed operational arrangements for issuing animal welfare licences be noted.

**49 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE VEHICLE LICENSING - REQUEST FOR WAIVER OF POLICY REQUIREMENT THAT ALL VEHICLES MUST PROVIDE DIRECT ACCESS AND EGRESS WITHOUT THE NEED TO TIP OR FOLD SEATS**

The Licensing manager presented a report to enable members to consider a request from Mr Howarth to waive the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat. Prior to the meeting members had been given the opportunity to view the vehicle.

Members were advised that under section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976, a district council may attach to the grant of a licence of a private hire vehicle under the Act of 1976 such conditions as they may consider reasonably necessary. Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, could appeal to a magistrates' court.

For the purpose of the above, the Council had established conditions attached to the grant of a private hire vehicle licence.

The standard licence condition provided that "Access to all passenger seats must be unimpeded. Clear access and egress to all passenger seats must be provided, without the need to tip forward, fold or remove seats. This will apply to all new and replacement vehicles licensed after this policy comes into force. If a seat has to be removed to comply with this requirement, it shall be removed from the nearside of the vehicle, from the row of seats, which are situated behind the front passenger seat." Members were advised that

the condition had been introduced on the grounds of the safety and comfort of the travelling public.

On 29 September 2011 Mr Howarth had applied for and was granted a private hire licence for the VW Touran to carry a maximum number of 4 passengers. The vehicle had actually been manufactured to carry 6 passengers, however access to the rear seats was impeded, and this did not comply with the council's policy. Mr Howarth had subsequently written to the Licensing department in order to make representations to the committee, as he wanted the vehicle to be licensed to carry 6 passengers. A copy of Mr Howarth's letter was attached to the report.

Members were reminded that a similar request had been made by a proprietor of a VW Caddy, and had been considered by the committee in September. That request had been approved, however that vehicle had been different from this one in several relevant ways. Firstly, the vehicle had had room to carry luggage even with the full complement of seats. The luggage space in the vehicle which was presented was very limited with the extra two seats in place.

It was advised that actual size of the rear luggage space with the seats in place was 300mm deep by 960mm wide. The applicant in the previous case had, at the suggestion of the Licensing manager, added some additional safety measures to the vehicle. The vehicle had a rear hatch/door which was capable of being opened from the inside of the vehicle, and had been clearly marked 'Emergency Exit'. This had been to allow passenger in the rear row of seats to egress the vehicle through the back hatch in case of emergency, without having to move a passenger in front of them. This had been achievable in that particular vehicle as the rear row of seats had folded down on to themselves, thus lessening the height that the passenger would have to climb over to evacuate the vehicle. There was also a void behind the rear seats that the passengers could climb into to operate the emergency exit door. However the vehicle presented to the committee was not the same design as that one and access through the rear would be extremely difficult if not impossible.

It was advised that if approved the vehicle would be added to the list of approved vehicles so that future applications to licence an identical vehicle would be dealt with by officers as an automatic grant. Members were advised that there was a condition attached to hackney carriage vehicles which the vehicle could not comply with, and whilst this particular application was for a licence to be granted for a private hire vehicle, the condition needed to be considered whilst making a decision whether to grant the licence and allow the vehicle to be added to any approved list. The relevant condition was as follows:

"Hackney carriage vehicles should be capable of carrying one average size piece of luggage per passenger. For the purpose of these conditions, average size luggage is deemed to be H48cm, W71cm, D19cm."

This condition applied to hackney carriage vehicles only, as all hackney carriage vehicles could be hired on the spot, and should be capable of carrying the full complement of passengers and luggage. A private hire vehicle was pre booked, and at the time of booking it could be determined whether or not the vehicle was suitable for the needs of the customer.



Mr Howarth was in attendance at the meeting and made representations to the committee. He also responded to some of the points raised in the report in support of his request.

The committee asked questions regarding the gaps in the floor of the vehicle which were left exposed when the seat was in the tipped position. They queried whether passengers could get their shoes caught in the gaps. Mr Howarth advised the committee that he had previously operated two of the same vehicles before the rules had changed and that it had never happened in the past.

Members discussed the possibility of fitting a handle to the inside of the rear hatch/door which was capable of being opened from the inside of the vehicle, and that it be clearly marked as an emergency exit. Mr Howarth agreed that if members were minded to approve his application he would be willing to include these additional safety features.

It was proposed by Councillor Burns and seconded by Councillor Hill: -

- “(1) That Mr Howarth’s request for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat be approved, subject to the inclusion of the additional safety features as set out below:

That a handle be fitted to the inside of the rear hatch/door which was capable of being opening from inside of the vehicle, and that it be clearly marked as an emergency exit.

- (2) That the VW Touran with these exact specifications be added to the list of approved vehicles, provided that the vehicle was to operate as a private hire vehicle only.”

By way of a friendly amendment to (1) Councillor Hill proposed:

“That (1) be revised to read as follows:

That Mr Howarth’s request for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat be approved, subject to the inclusion of the additional safety features as set out below:

That a handle be fitted to the inside of the rear hatch/door which was capable of being opening from inside of the vehicle, and that it be clearly marked as an emergency exit.

That any other safety features that the Licensing manager decides are appropriate be included.”

There being no seconder, the amendment was deemed to have failed.

Members then voted on the original proposal.

Upon being put to the vote, 7 members voted in favour of the proposition, with 1 against, whereupon the vice-chairman declared the proposition to be carried.

**Resolved:**

- (1) That Mr Howarth's request for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat be approved, subject to the inclusion of the additional safety features as set out below:

That a handle be fitted to the inside of the rear hatch/door which was capable of being opening from inside of the vehicle, and that it be clearly marked as an emergency exit.

- (3) That the VW Touran with these exact specifications be added to the list of approved vehicles, provided that the vehicle was to operate as a private hire vehicle only.

**50 CONFIDENTIAL ITEMS:-**

In accordance with Section 100A(2) of the Local Government Act 1972, the press and public were excluded for the following item of business on the grounds that it could include the possible disclosure of confidential information.

**51 APPLICATION FOR HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCES - CHRISTOPHER MERCER (PAGES 3 - 4)**

The Licensing manager introduced a report to enable members to consider Mr. Mercer's application for a hackney carriage and private hire driver's licence.

Details of the individual case and the chairman's summary of the decision are set out in confidential minute no. 51 in accordance with Section 100A(2) of the Local Government Act 1972.

It was proposed by Councillor Burns and seconded by Councillor Hill: -

"That Mr. Mercer's application for a hackney carriage and private hire driver's licence be refused."

Upon being put to the vote members voted unanimously in favour of the proposition, whereupon the chairman declared the proposition to be carried.

***Resolved:***

That Mr. Mercer's application for a hackney carriage and private hire driver's licence be refused.

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Chairman

(The meeting ended at 2.30 p.m.)

**Any queries regarding these Minutes, please contact  
Tom Silvani, Democratic Services - telephone (01524) 582132 or email  
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