

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 13 September 2023 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Ellie Chard, Gwyneth Ellis, Bobby Feeley (Chair), Hugh Irving (Vice Chair), Alan James, Brian Jones, Paul Keddie, Win Mullen-James and Andrea Tomlin

ALSO PRESENT

Solicitor (LB), Public Protection, Regeneration and Economic Development Manager (GR), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Licensing Officer (ES), Enforcement Officer – Licensing (KB), and Committee Administrators (KEJ & SLW [Webcaster])

POINTS OF NOTICE

- regrettably, it had not been possible to provide simultaneous translation facilities for the meeting due to the scheduled simultaneous translator no longer being available and attempts to find a replacement to cover the meeting having been unsuccessful
- the Chair welcomed Councillor Ellie Chard (who had replaced Councillor Michelle Blakeley-Walker) to her first meeting of the Licensing Committee. Councillor Chard had not yet received the required licensing training and was therefore attending the meeting as an observer only on this occasion.

1 APOLOGIES

Councillor Delyth Jones
Councillor Win Mullen-James would be arriving late to the meeting.

2 DECLARATION OF INTERESTS

Councillor Brian Jones declared a personal interest in agenda item 5 – Proposed changes to Hackney Carriage Vehicles Table of Fares and Charges, because as a former Cabinet Member he had been involved in discussions with a large proportion of the taxi trade with regard to the Electric Vehicle Charging Pilot.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 19 June 2023 were submitted.

RESOLVED that the minutes of the meeting held on 19 June 2023 be received and confirmed as a correct record.

5 PROPOSED CHANGES TO HACKNEY CARRIAGE VEHICLES TABLE OF FARES AND CHARGES

[Councillor Win Mullen-James abstained from voting on this item because she had joined the meeting late and had not been present for the whole debate.]

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) seeking the Committee's review of the current tariff charges for hackney carriage vehicles (taxis), including options for consideration and recommendations on the way forward. The current tariff charges had been set in July 2022.

Following a request from a licensed driver, officers had consulted on a proposed 10% increase to all tariffs and extras to ascertain the views of the licensed trade. The responses included general support for an increase and numerous alternative variations of the proposal. The Licensing Consultant's Report on the 2022 fare review had recommended a methodology for calculating future fares which was reliant on sufficient data being provided by the licensed trade; that engagement work had commenced with no definitive timescale for completion. In the absence of that data, the Consultant had recommended using the Retail Price Index (RPI) for Motoring (4.8% as of August 2023) as a tool to increase/decrease fares.

The PPBM guided members through the report in detail and options available to either retain the current table of fares, support the proposal for a 10% tariff increase, or support an increase in line with the RPI for Motoring. If members supported a fares increase a public consultation would be undertaken on the proposal with any objections brought back before the Committee for consideration. Any final tariff would be subject to a Lead Member Delegated Decision. Officers had recommended consultation on a tariff increase of 5% (rounded to the nearest full percent) in line with the RPI for Motoring as recommended by the Consultant.

Members considered the report and options available to them, and there were mixed views as to the best way forward. Questions were raised with the PPBM on various aspects of the report and initial consultation with the trade, with some concerns raised regarding assumptions that non-respondents were not supportive of a review, the general lack of response from the taxi trade to inform the process, and inflation rate fluctuations when used as a basis for tariff increases. Whilst general concerns were raised regarding the timing of a tariff increase during a cost of living crisis and impact on taxi users, regard was also given to the impact on the taxi trade who were dealing with increased costs affecting the industry. It was felt there should be a more structured approach to reviewing tariffs on a regular basis.

The PPBM responded to members' questions and comments as follows –

- there were no statutory timeframes for reviewing taxi fares and charges
- following the request for a tariff increase it was considered appropriate to gauge support for an increase from the taxi trade

- 280 licensed drivers had been consulted, 56 had responded with 47 in support of an increase, which was considered sufficient to proceed with a review
- there was no methodology behind the assumption that those who failed to respond were satisfied with the current tariff, and given the low response rate to consultations generally, that assumption could not be satisfactorily concluded
- officers were working to engage with the taxi trade as recommended by the Consultant with a view to calculating future fare increases and on completion of that work regular reviews would be carried out on a structured and timely basis
- whilst the consultees and respondents had been referred to as licensed drivers, they also included taxi business owners and proprietors
- if a fares increase was supported a wide-ranging consultation with the public and stakeholders would follow
- it was accepted that the recommended 5% increase in line with the RPI for Motoring as at August 2023 changed on a monthly basis, but for the purposes of a review an agreed figure was required to move forward
- noted that although inflation had fallen over recent times, it meant that costs had risen more steeply previously and were still increasing but at a slower rate
- tariffs set the maximum charge permitted, and a lesser fee could be charged
- the Consultant had completed his report and there were no further consultancy costs being incurred by the authority in relation to that work.

Councillor Joan Butterfield was uncomfortable with a tariff increase at this time but recognised the cost increases faced by the taxi trade. She felt that consultation on a 5% increase would be appropriate to seek the views of the wider public to inform any subsequent decision. Consequently, Councillor Butterfield proposed, seconded by Councillor Alan James, the officer recommendations as set out in paragraphs 6.1, 6.3 and 6.4 of the report, to consult on a 5% increase, proceed with the statutory notice in that regard, and report back any objections to the Committee.

Councillor Brian Jones could not support a tariff increase at this time given the current cost of living crisis and he did not consider the number of responses to the consultation in support of an increase to be sufficient to proceed. Councillor Jones proposed an amendment, seconded by Councillor Andrea Tomlin, to retain the current table of fares. The Solicitor set out the process regarding amendments to motions and the Chair called for a vote on the amendment.

Councillor Gwyneth Ellis raised a point of order on the validity of the amendment, which she argued was not an amendment but a vote against the motion. The Solicitor reiterated the options available to the Committee as set out in the report. If the amendment failed, the Committee was effectively agreeing to an increase, but there was the option to increase by 5% or 10% which was yet undetermined.

Having counted the votes, clarification was sought from Councillor Butterfield on whether and how she had voted which had not been captured. Councillor Butterfield confirmed her vote which resulted in a tied vote. The Chair used her casting vote to vote against the amendment which was **LOST**. The Chair then called for a vote on the substantive motion by Councillor Joan Butterfield, seconded by Councillor Alan James which was restated for the benefit of members.

Upon being put to the vote it was subsequently –

RESOLVED, by majority vote, that –

- (a) officers be instructed to consult on the implementation of an increase to the tariff by 5% (rounded to the nearest full percent) in line with the Retail Price Index for Motoring;
- (b) officers be authorised to proceed with a statutory notice with an implementation date of at least 28 days following publication of the notice, and
- (c) officers be instructed to prepare a report for the next Licensing Committee if any objections were received to that statutory notice.

6 PROPOSED REVISED HACKNEY CARRIAGE BYELAWS

The Senior Licensing Officer (SLO) submitted a report (previously circulated) presenting the revised Byelaws relating to Hackney Carriage regulation for the Committee's consideration and approval for formal consultation.

Members were reminded of the Council's legislative requirements for the licensing and regulation of hackney carriages and drivers. Since local government reorganisation in 1996 those responsibilities had been exercised through the Council's Hackney Carriage and Private Hire Licensing Conditions and Byelaws relating to Rhyl and Prestatyn only. It was recommended that the Council adopt Byelaws which covered the whole of the county to ensure they accurately reflected changes in legislation and ensure a fair, transparent, and consistent approach.

Officers recommended that the Model Byelaws produced by the Department of Transport (Appendix A to the report) be approved for formal consultation with any representations being brought back before Council for consideration. In the event the Model Byelaws were adopted by the Council, the Rhyl and Prestatyn Byelaws (Appendix B to the report) would be repealed.

Members agreed that a consistent approach across the county should be applied in respect of hackney carriage byelaws and noted that adoption of the model byelaws would not effect any major change but modernised the current provision which related only to Rhyl and Prestatyn at present. The relevance of provision 18(a) was questioned in so far as it related to any property left behind being physically handed in to a Police Station. The SLO confirmed items were meant to be deposited at a Police Station which was a licensing condition, with property being handed to someone in authority and the Police being best placed to deal with the matter.

Having considered all the information contained in the report the Committee –

RESOLVED that –

- (a) the proposed Department of Transport Model Byelaws (as detailed at Appendix A to the report) be supported, and

- (b) *officers be authorised to commence a formal consultation with all hackney carriage proprietors and licensed drivers.*

7 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER MEDICAL REQUIREMENTS

The Senior Licensing Officer (SLO) submitted a report (previously circulated) on the review of current medical requirements for drivers and sought the Committee's approval for formal consultation on the proposals for implementation of Group 2 medical standards in place of the current Group 1 medical standards.

Details of the existing practice for Group 1 medical checks and proposals for Group 2 medical checks, including proposed conditions to meet the Group 2 medical standards of fitness to drive, medical forms for both groups, and cost implications had been set out in the report. Group 2 medical standards had been implemented in 19 of the 22 local authorities in Wales (including all neighbouring authorities). Any change to the current policy would require a consultation process with any objections being brought back before the Committee. If no representations were received the proposed standards would come into effect at an agreed date.

The Committee noted that the proposal to move to Group 2 medical standards would bring the authority in line with other Welsh local authorities, effect policy improvement, and meet the Welsh Government proposals on taxi licensing reform. In response to a question as to whether the proposal would deter new applicants, the SLO advised that it could prove an incentive to some drivers given that only one medical was required on first application for those under 45 and then every three years from age 45 – 65 and annually thereafter, as opposed to the existing policy which required a medical every three years for all drivers up to age 60 and annually thereafter. She also clarified that there was no shortage of licensed drivers.

RESOLVED that –

- (a) *officers be authorised to consult with current licensed drivers and licensed operators and proprietors on the implementation of Group 2 medical standards;*
- (b) *where no objections were received following the consultation period, officers be authorised to implement a requirement for Group 2 medical certificates for licensed drivers as set out in paragraph 4.5 of the report, with effect from 1 December 2023 for new applicants, and 1 June 2024 for renewal licence holders, and*
- (c) *where objections were raised during the consultation period, officers be instructed to prepare a report for a future Licensing Committee meeting where objections could be considered.*

8 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2023

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section and a revised forward work programme for 2023.

The priorities of the Licensing Section reflected the duty placed on the authority in relation to its responsibilities for the licensing function and the effective regulation, control and enforcement of licensees, and the authority's commitment to safer communities and the development of the economy. Members were asked to consider the revised forward work programme and note that the scheduled review of the Hackney Carriage and Private Hire Statement of Policy had been further postponed pending the outcome of the consultation on the Welsh Government's White Paper: Taxi and Private Hire Vehicle (PHV) (Wales) Bill.

RESOLVED that –

- (a) *the contents of the report be noted, and*
- (b) *the revised forward work programme for 2023 as detailed in Appendix A to the report be approved.*

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following items of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12, 13 and 14 of Part 4 of Schedule 12A of the Act.

At this juncture (10.45 am) the meeting adjourned for a short break.

9 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE

A confidential report by the Head of Planning, Public Protection and Countryside Services (previously circulated) was submitted upon –

- (i) an application having been received for a Private Hire Vehicle Licence;
- (ii) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the Council's policy with regard to the five-year age limit for vehicles licensed under a new application;
- (iii) additional conditions being applicable to the licensing of specialist vehicle types such as the one presented in this case together with supporting evidence submitted by the Applicant, and
- (iv) the Applicant having been invited to attend the meeting in support of the application and to answer members' questions thereon.

The Applicant was in attendance and confirmed he had received the report and committee procedures.

The Enforcement Officer (KB) summarised the report and facts of the case.

The Applicant presented his case and referred to supporting documentation which had been previously circulated with the report. He was an established and reputable operator of specialist vehicles and provided some background to the type of business operated which catering for a niche market. Reference was made to the merits of the proposed specialist vehicle for licensing together with maintenance and service schedules, supported by a local garage. The application was for a specialist vehicle with limited use for special events, maintained to a high standard and met all legal and safety requirements.

In response to questions, the Applicant clarified that his intention was to upgrade and replace his existing licensed vehicle rather than adding to the fleet. In terms of previous maintenance regimes, the Applicant had details of the vehicle's previous service history and MOTs and the vehicle had been inspected to his satisfaction; he also gave assurances as to future ongoing maintenance regimes. Finally, he confirmed that he was willing to comply with the additional licensing conditions for the vehicle in question as set out in the report.

The Committee adjourned to consider the application and it was –

RESOLVED that the application for a Private Hire Vehicle Licence be granted subject to the additional conditions as detailed in Appendix 3 to the report.

The reasons for the Licensing Committee's decision were as follows –

Members had carefully considered the application, officer's report and the case put forward by the Applicant both in writing in advance of the meeting and at the meeting itself.

In reaching their decision, the Committee noted the nature and type of business operated, the vehicle in question with low mileage and few specialist journeys and that the Applicant was a reputable, long established operator of such specialist services. On that basis, having considered specifically the above, and the strict bi-annual maintenance service by Fleet Services, members agreed that a case had been made to deviate from their age limit policy in this instance and grant the application as applied for, subject to the additional conditions applicable to the specialist vehicle type, as set out in Appendix 3 to the report.

The Committee's decision and reasons therefore were conveyed to the Applicant.

[As an aside, the Committee noted that it was likely that a separate policy in respect of specialist vehicle types would be produced in future, either as part of the Welsh Government's reform of taxi licensing or via the Council's own policy framework.]

The meeting concluded at 11.20 am.