

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 12

Brighton & Hove City Council

Subject: Equalities Review
Date of Meeting: 10 September 2010
Report of: Acting Director of Environment
Acting Director of Strategy and Governance
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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Brighton & Hove City Council Single Equality Scheme 2010/2012 commits the council to improving access to Hackney Carriage (taxi) and Private Hire services for disabled people. Issues mentioned in the Scheme include the availability of wheelchair accessible vehicles (WAVs), improved customer satisfaction, maintaining a mix of vehicle types, disability awareness training for drivers, and information about accessible services.
- 1.2 The aim of this Equalities Review is to review the effectiveness of Hackney Carriage and Private Hire services in meeting the needs of our citizens, in particular disabled people, and to seek Committee's recommendations for actions to address adverse impact and/or to promote equality.
- 1.3 The full report (Appendix B) summarises evidence and findings and includes the trade's response to the recommendations.

2. RECOMMENDATIONS:

- 2.1 That Licensing Committee approves the recommendations as shown in Appendix 'A.'

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council licenses hackney carriage and private hire, drivers, vehicles and private hire operators. The authority for doing so is by adoption of the Local Government (Miscellaneous Provisions) Act 1976, Part II, (Section 45), The Town Police Clauses Act 1847 (Section 68) and the Public Health Act 1875 (Section 171.)

- 3.2 The Disability Discrimination Act 2005 imposes on the council, when exercising its functions, a duty to have due regard to the need to:
- eliminate harassment of, and unlawful discrimination against disabled people
 - promote positive attitudes towards disabled people
 - encourage participation by disabled people in public life
 - promote equality of opportunity between disabled people and non-disabled people
 - take steps to meet disabled people's needs, even if this requires more favourable treatment
- 3.3 The Disability Discrimination Act (DDA) is due to be revoked as the Equality Act is implemented, commencing October 2010. Most of the DDA's provisions have been carried over into the Equality Act including the public sector disability equality duty (outlined in 3.2 above).
- 3.4 The Equality Act 2010 also includes sections relating to hackney carriages / private hire vehicles, and disability. Originally, these were timetabled to come into effect from October 2010 but the Department for Transport now advises that there will be a period of public consultation leading to Guidance, prior to commencement of the relevant sections in 2011.
- 3.5 The implications of the new Act for disabled passengers, the council and the trade in the city, are still not entirely clear. However, this review has been undertaken with the new legislative requirements in mind, in an effort to minimise adverse impact on the trade.
- 3.6 The Equalities Review report went to Licensing Committee on 24th June 2010 (Agenda item 7). Lawyers acting for members of the trade had asked for an extended period of consultation. The content of the report was noted and the Committee agreed to reconvene after members of the trade had an opportunity to respond to the recommendations.
- 3.7 The period of consultation ended on 12th August 2010 and the responses received are now incorporated in the updated and amended report. Some recommendations have been changed to reflect requests and observations made by members of the trade.

4. CONSULTATION:

- 4.1 Access to hackney carriages / private hire vehicles and related issues were identified as priorities for disabled people in the council's Single Equality Scheme. This was after a series of public consultation days in October/November 2009 and consultation with 30+ community partner organisations (including the Federation of Disabled People) as well as public consultation on the website.
- 4.2 The council has a statutory duty to 'involve' disabled people – not merely to consult – and to help with this the Federation of Disabled People (an umbrella organisation) has set up a network of disabled people who take part in Equality

Impact Assessments for the public sector, focus groups, and site visits. Since October 2009 there have been 3 meetings of the group on this particular issue, reflecting the importance of door-to-door travel for disabled people.

- 4.3 During the Review individual members of the trade including operators, unions, drivers, proprietors and representatives of minority ethnic groups contributed. Lead officers within the relevant council services were consulted, as were Members from each of the parties.
- 4.4 During the consultation period the Equalities Review was discussed with the Taxi Forum who later supplied a written response to the recommendations, now included in the report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial implications:

- 5.1 There are no direct financial implications for the council associated with the recommendations made in this report. Taxi licensing fees are set at a level that it is reasonably expected will cover the costs of providing the service.

Finance Officer consulted: Karen Brookshaw

Date: 25/08/10

Legal implications:

- 5.2 The report deals in detail with the Council's duties under the Disability Discrimination Act 1995 as amended.
- 5.3 The Town Police Clauses Act 1847 confers upon the Council a discretion to license any vehicle, seating fewer than nine passengers as a hackney carriage vehicle. It is proper for the Council to adopt relevant standards, such a minimum size or CCTV, to assist it in the exercise of that discretion. There is a right of appeal to the Crown Court against a decision to refuse to licence a particular vehicle as a hackney carriage.
- 5.4 The Local Government (Miscellaneous Provisions) Act 1976 allows the Council to impose such conditions as it thinks necessary on Hackney Carriage and Private Hire vehicle licences. The report at Recommendation 9 proposes new conditions relating to the maintenance and operation of CCTV. The report provides justification for those conditions. Any person aggrieved by any conditions attached to a licence has a right of appeal to the Magistrates' Court.
- 5.5 As a public body, the Council is prohibited from acting in a way that is incompatible with a Convention Right. Article 8 of the European Convention on Human Rights provides that everyone has the right to respect for his private and family life. The use of CCTV in licensed vehicles has the potential to interfere with passengers' privacy rights. Interference with Article 8 rights is permitted as long as it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or

morals, or for the protection of the rights and freedoms of others. Although the report provides reasons for imposing the conditions, there is no acknowledgement of the potential impact on passengers

Lawyer consulted:

Liz Woodley

Date: 25/08/10

Equalities implications:

- 5.6 Recommendations are designed to promote equality of opportunity, eliminate unlawful discrimination, promote participation in public life and meet the needs of disabled people. Improving access to taxis/Private Hire Vehicles (PHVs) is a priority action in the council's Equality Scheme. Improving access to services by public transport is included in the Local Area Agreement.

Sustainability Implications:

- 5.7 The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. Improving accessibility is one of the government's four shared transport priorities. Increasing the age limits of taxis will adversely affect air quality.

Crime & Disorder Implications:

- 5.8 Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

Risk and Opportunity Management Implications:

- 5.9 The transport industry should be safe, profitable and be a positive experience for all residents and visitors.

Corporate / Citywide Implications:

- 5.10 Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

SUPPORTING DOCUMENTATION

Appendices:

- A Recommendations
- B Equalities Review report

- C Response from the Trade
- D Draft requirements for advertising in WAVs
- E BHCC Policy on Taxi/PHV Licensing (The Blue Book)
- F Response from GMB received during the initial review
- G Taxi forum minutes (22 July 2010)

Documents In Members' Rooms

None

Background Documents

None

