

ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE

Agenda Item 15

Brighton & Hove City Council

Subject: Taxi licensing and the Hackney Carriage Office

Date of Meeting: 5 September 2011

Report of: Head of Planning and Public Protection

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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 A request for scrutiny of taxi licensing was submitted on 28 June by the Chief Officer of the Brighton & Hove Federation of Disabled People and Brighton & Hove Streamline Taxis. Issues raised include the proportion of wheelchair accessible vehicles, cross-border hire, passenger safety, driver training and information and licence fees.
- 1.2 The request is attached at Appendix 2
- 1.3 Initial information provided by officers is included at section 3 of this report and in Members' Rooms.

2. RECOMMENDATIONS:

- 2.1 That members: (1) Note this summary report.
- (2) Consider whether the taxi licensing council function should be reviewed and scrutinised.

3. BACKGROUND INFORMATION

- 3.1 Overview and Scrutiny Commission can review and scrutinise all matters. Council functions may be Executive or Council. Environment and Community Safety Overview and Scrutiny Committee performs the review and scrutiny function in relation to all environment matters, particularly executive decisions and service provision connecting to the Environment function.

- 3.2 The Licensing Committee is responsible for discharging the Council's functions under the Licensing Act 2003 and the Gambling Act 2005; most licensing matters are Council functions, dealt with by Committee rather than leader and cabinet. It also has responsibility for all licensing and registration functions not covered by the Licensing Act 2003; it discharges all the Council's functions regarding licensing and registration. Licensing committee is the decision making body for developing taxi licensing policy.
- 3.2 The Licensing Committee has been overseeing and developing licensing policy. The action plan is appended (Appendix 1).
- 3.3 On 10 September 2010 a report was made to a Special Licensing Committee (Non Licensing Act 2003) regarding the Equalities Review. As part of that report, a list of recommendations was prepared and following on from that committee, that list of recommendations became an Equalities Review Action Plan (see appendix 1). Link to web page <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=116&MId=3060>
- 3.4 On 10 February 2011, a Petition "Enforcement of Legal Duty for Disabled Taxi Passengers" was received by the Licensing Committee (Non Licensing Act 2003). Reports on Equality Act 2010 - List of Designated wheelchair Accessible Vehicles, Guidance for CCTV monitoring in Licensed Hackney Carriage and Private Hire Vehicles, Hackney Carriage / Private Hire Trade Ethnicity Monitoring and Inherited Hackney Carriage plates were presented. Link to web page <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=116&MId=2341>
- 3.5 On 23 June 2011, Reports on Blue Book Review, Horse Drawn Hackney Carriage Vehicle Licences and an updated action plan from Committee report recommendations September 10 were presented to the Licensing Committee (Non Licensing Act 2003). Link to web page <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=116&MId=3348>
- 3.6 An internal audit is being conducted into licensing to ensure licence fees are set transparently in compliance with regulation and that income is processed efficiently, effectively and properly reconciled.
- 3.7 The Transport Select Committee (set up to scrutinise the Government Department for Transport) recently reported on "Taxis and private hire vehicles: The road to reform". The conclusions and recommendations are included in documents in Members' rooms. The Committee recommends a "thorough overhaul of the legislation".

- 3.8 The Transport Select Committee has three recommendations concerning cross-border hire problems relating to licence conditions, enforcement options and policy.
- 3.9 The Council's Equality Action Plan (Appendix 1) deals with training (paragraphs 2, 3, 22 and 23) and passenger safety (paragraphs 4, 8, 8A, 9, 15, 19, 21 and 23).
- 3.10 Further information is being placed in Members' Rooms as follows:
- a) A letter from the National Private Hire Association outlining the national position with tables to illustrate the Wheelchair Accessible Vehicle (WAV) percentages within licensing districts. Local authorities fall into four groups: regulated mixed fleets (as Brighton & Hove), fleets deregulated with only WAV new entrants, deregulated with no WAV requirement and 100% WAV. In Brighton & Hove there is limited hackney carriage numbers policy and managed growth. The proportion of WAVs is increased by 5 new WAVs per annum and by requiring transferred plates to be accessible at next renewal. This is Licensing Committee policy.
 - b) Taxis and private hire vehicles: the road to reform - Transport Committee. Conclusions and Recommendations
 - c) Extracts from Private Hire Association sheets detailing action taken by Local Authorities re Wheelchair Accessible Vehicles (WAVs)

4. CONSULTATION

- 4.1 The Federation and the Taxi Forum which comprises the Unions, Operators and Associations are involved in the review and development of taxi licensing policy.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 To be met from existing budget.

Legal Implications:

5.2 Equalities Act 2010 - accessible vehicles

Section 16 of the Transport Act 1985 will be amended by Section 161 of the Equality Act 2010. This means that in certain circumstances, section 16 of the Transport Act 1985 which allows limiting the number of licensed hackney carriages (HC), will not apply. So our restricted numbers policy would no longer apply to wheelchair accessible

hackneys. We currently only issue hackney carriage vehicle licences to WAVs by managed growth.

Control of numbers of licensed taxis: exception (section 161)

Section 16 of the Transport Act 1985 will be subject to Section 161 of the Equality Act 2010, which applies if an application for a HC vehicle licence is made, where it is possible for a disabled person to get into and out of the vehicle in safety and to travel in the vehicle in safety and reasonable comfort, and while in a wheelchair of a size prescribed by the Secretary of State, and the proportion of taxis licensed in respect of the area to which the licence would apply is less than the proportion that is prescribed by the Secretary of State. Section 16 of the Transport Act 1985 (which allows a licence to ply for hire to be refused in order to limit the number of licensed carriages) will not apply in relation to the vehicle.

A key consideration for us will be the proportion of wheel chair accessible vehicles (WAVs) prescribed for us by the Secretary of State.

Taxi accessibility regulations would provide requirements concerning access, comfort, door size, headroom, restraints, and floor area.

Section 163 requires that a licence for a taxi to ply for hire must not be granted unless the vehicle conforms to the provisions of taxi accessibility regulations. Renewal of existing licences is exempted unless the Secretary of State makes an order which can apply differently for different areas / localities.

164 Exemption from taxi accessibility regulations. The implementation of these regulations has missed deadlines and were originally expected under the DDA 1995.

An authority may only apply for an exemption order if satisfied both that, having regard to the circumstances in its area, it is inappropriate, and that the application of that section would result in an unacceptable reduction in the number of taxis in its area. I think it's unlikely that argument could be made here as we have a waiting list for HC licences and a premium on the plate, even though we only issue plates for WAVs.

Our restricted numbers policy is at risk by this. A possible conclusion could be delimiting hackneys, only allowing WAVs as new entrants but unrestricted. There is also indication that the power to limit HC numbers might be revoked.

Equalities Implications:

- 5.3 These are the subject of the report and the Equalities Impact Assessment led to the Equalities Action Plan.

Sustainability Implications:

- 5.4 Lengthening the age limit for hackney carriages could impact on emissions but vehicles are subject to a high standard of vehicle checks.

Crime & Disorder Implications:

- 5.5 Sufficient taxi provision is required for safe dispersal of the night time economy's customers.

Risk and Opportunity Management Implications:

- 5.6 When taxi accessibility regulations are made, potential outcomes are: 100% accessible fleet or delimiting for new WAV hackney carriages. This has implications for the taxi trade.

Corporate / Citywide Implications:

- 5.7 A sustainable, successful taxi fleet is essential for a successful local economy and tourism strategy.

SUPPORTING DOCUMENTATION

Appendices:

1. Updated action plan
2. Request for Scrutiny

Documents in Members' Rooms:

Letter from National Private Hire Association re Taxi Accessibility Survey of all councils England and Wales: comparison history of hackney carriage and private hire numbers since 1999.

Taxis and private hire vehicles: the road to reform - Transport Committee. Conclusions and Recommendations

Extracts from Private Hire Association sheets detailing action taken by Local Authorities re Wheelchair Accessible Vehicles (WAVs)

Background Documents:

1. NONE

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Agenda Item 15 Appendix 1

Updated action plan from Committee report recommendations September 10 (updated 14 July 2011)

Date & Number	Recommendation	Agreed action
10/09/10 1	That the committee notes the position regarding the Equality Act 2010 and its possible implications.	Committee originally noted in September 2010. Further report to be made to update members. This action is complete. Further reports continue to be made to taxi forum and licensing committee.
2	That the committee notes the current BTEC qualification will not be available to new applicants after 30 th September 2010 and approves the replacement entry-level qualification for new drivers.	BTec is now a National Standard called Introduction to the Role of the Professional Taxis and Private Hire Driver (L2) and we will recognise any qualification gained under this standard. All new drivers will have to attain this qualification. Need to ensure that the new qualification provides the correct level of equalities training including proper use of wheelchair accessible vehicles. This action is complete.
3	That the HCO, working in partnership with the Federation of Disabled People and other stakeholders, develop the framework for a Certificate of Professional Competence, research providers, and report with firm proposals by the end of March 2011.	Please see 2 above. There is a need to establish the baseline of equalities training and consider how to ensure continuing professional development. Once established, a licence condition would be imposed once the hackney carriage office has legal clearance. There has been difficulty identifying an accredited provider.

		The three taxi operators agreed to develop their own scheme at taxi forum on 17 June 2011.
4	That the HCO implement changes and improvements to the current complaints process to ensure that it is accessible and that all complainants are provided with clear, detailed responses.	A new complaints leaflet has now been produced and distributed to council's main access points. It is also available on the council's website. These are also available for operators. This includes a 'free post' post card to allow people in taxis to make complaints. This action is complete with a customer feedback postcard.
5	That the Committee approve the maximum age limit for a WAV, be increased from 10 to 12 years, subject to it passing two vehicle tests per year, and that the Existing Conditions are amended accordingly with the rider 'all vehicles over ten years old shall be required to pass two vehicle inspections each year' be added.	The maximum age limit was raised. This action is complete.
5A	That the Committee approve the removal of the maximum age limit for newly licensed vehicles, subject to the maximum age limit appropriate to that vehicle.	As 5 above. This action is complete.
6	Withdrawn	This arose from technical difficulties in requiring swivel seats in vehicles not designed for them. Not applicable.
7	That the views and evidence provided by all contributing parties to this report be brought to the attention of officers dealing with the school transport contracts.	The trade and officers are aware of the separation between licensing requirements and contract work. The trade have been advised by the Head of Schools admissions and transport on a number of occasions. The city's private hire operators understand the new Best Value tendering and procurement process and are very welcome to

		submit tenders. The separation between contracts and licensing requirements has been fully aired between officers. This will remain a sensitive area.
8	That the Committee approve all new hackney carriage vehicle licences and licences which are renewed following a transfer should conform to the Conditions of Fitness as prescribed by the Public Carriage Office (ie purpose built London type hackney carriage vehicles) or be for wheelchair accessible vehicles with M1 ECWVTA.	Officers are aware of 13 transfers that have resulted in new WAVs in the fleet. Taxi licensing is migrating to a corporate software system which should allow transparent reporting of data. This will increase the percentage of accessible vehicles to 27%.
8A	That the Committee approves the licensing of rear loading M1 ECWVTA WAVs.	Taxi licensing policy (Blue Book) will be used to attempt to specify minimum standards of WAV. This is complete, however, there are new requests from the Federation to be processed.
8B	That the Committee approves the immediate release of five new hackney carriage vehicle licenses.	Agreed to issue 5 last September and 5 in May have been offered. This action is complete.
9	That the Committee approves that CCTV approved by the Director is installed in all vehicles (a) upon application for a new vehicle licence on or after 1 April 2012, or (b) on annual renewal of a vehicle licence falling between 1 April 2012 and 31 March 2013	Amended to read by 1 April 2013. Committee have now agreed this condition. Officers are following progress of legal challenge elsewhere in the country. This action is complete although CCTV remains a sensitive area and subject to legal challenge elsewhere.
10	That the Committee approve a pilot scheme initially for one-year, to publish contact details of WAV drivers prepared to take bookings, and where an operator's licence is required for a single vehicle, that operator's licence is provided free of charge.	Details of WAV drivers installed on BHCC website with relevant links to Federation website. This action is complete.
11	That the Committee note the promotion of accessible taxi/PHV services to	Customer Services have placed information on the

	taxi voucher recipients in January 2011.	Website to promote vouchers. This action is complete but could be repeated where necessary.
12	That the Committee note the proposal to support National Customer Service week by promoting WAVs and demonstrating access features of vehicles.	City Cabs promoted their vehicles during this week. Further work with customer services will be explored. This action is complete but could be repeated as appropriate.
13	That the Committee supports in principle a Star Rating for operators, the detail to be developed by the HCO in partnership with the Federation of Disabled People.	MS to arrange meeting between Geraldine, MS and operators, also include in Forum Agenda. Preliminary work has been undertaken and officers are seeking trade buy-in to action.
14	That the Committee ask the Federation of Disabled People to make a detailed proposal as to how they would envisage undertaking 'mystery shopping' setting out any costs that might be incurred.	Geraldine to investigate.
15	That the Committee require 'Right to Work' checks carried out on application for drivers' licences.	This action is complete.
16	That the Committee approve in principle, interior seat advertising in licensed WAVs.	This action is complete.
13/05/11 New 17	Equalities Act 2010 preparation for a list of designated vehicles. New offences are created concerning failure to pick up, failure to carry safety and overcharging.	Officers are now able to produce a designated list of wheelchair accessible vehicles and have written to all proprietors advising them that their vehicle has been placed on the "shadow list" and that they will be written to again once the act comes into force. Currently officers only know of 10 of the 126 WAVs that have medical exemptions either for manual handling or respiratory conditions.

New 18	Taxi forum terms of reference.	Head of Environmental Health & Licensing to offer assistance to progress. This was reported to taxi forum on 17 June 2011. There were some outstanding issues concerning the pre-meetings, rules on attendance and levels of consensus required for recommendations. It has been deferred to the next taxi forum on 14 July 2011.
05/07/11 New 19	Blue Book to include DfT advice on EA2010.	
New 20	Blue Book to include list of designated vehicles.	
New 21	Use TfL guidance to use as consultation base set for WAV specification locally.	
New 22	Record Certificate of Competence on driver records.	
New 23	Trawl for funding for training.	
New 24	Circulate Bracknell's and Streamline's advice to Forum for comments. This advice is aimed at safe transport of passengers including disabled passengers.	

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Agenda Item 15 Appendix 2

The FED and Brighton and Hove Streamline would like to suggest a scrutiny of Taxi Licensing and the Hackney Carriage Office.

This is very timely because there are number of things the panel might want to consider:

- The taxi provisions in the Equalities Act. There is an issue locally regarding the proportion of wheelchair accessible vehicles (WAVs) in the fleet.
- The commitment from the administration to increase the percentage and how they might implement that commitment.
- The inquiry into taxi/ph licensing by the Government's Transport Select Committee, looking at cross-border hire problems caused by private hire vehicles picking up passengers outside of the area in which they are licensed, again a local problem.
- The Select Committee is also considering issues with regard to passenger safety which is an issue for all stakeholders.
- Driver training and information.
- Commitments by the administration to ensure the licence fees reflects the true cost to the council.

Geraldine Des Moulins 29 June 2011

[Further information is enclosed for Members: 24 August 2011]

