

Crawley Borough Council

Minutes of Licensing Committee Monday 3 November 2014 at 7.30pm

Present:

Councillor M G Jones (Chair)

Councillor B J Quinn (Vice-Chair)

Councillors B J Burgess, C C Lloyd, B McCrow, C J Mullins,
D M Peck, M W Pickett, R Sharma, D J Shreeves, J Stanley and
K J Trussell

Also in Attendance:

Mr Derek Kearnan

Hackney Carriage Proprietor/Driver

Mr Shahzad Abbas Malik

Hackney Carriage Proprietor/Driver and
member of the Hackney Carriage Association

Mr Amin Mirza

Chairman of the Hackney Carriage Association

Officers Present:

Tony Baldock

Environmental Health Manager

Kevin Carr

Legal Services Manager

Bill Nailen

Licensing Officer

Mez Matthews

Democratic Services Manager

Apologies for Absence:

Councillors B K Blake and L S Marshall-Ascough

6. New Committee Member

The Chair welcomed Councillor M Pickett to the meeting who had been recently appointed to the Committee.

7. Members' Disclosure of Interests

No disclosures of interests were made by Members.

8. Minutes

The minutes of the meeting of the Committee held on 18 June 2014 were approved as a correct record and signed by the Chair.

9. Draft Taxi and Private Hire Vehicle Policy

The Committee considered report PES/161 of the Head of Planning and Environmental Services which proposed a policy as relates to the licensing of hackney carriages and private hire vehicles.

The Chair informed the Committee that he had received a request for speaking rights from several members of the trade and that they would be permitted to address the Committee in relation to the Policy. The Chair stressed that the Policy, attached as an appendix to the report, was draft and would be subject to a 90 day consultation period before it was finalised. The Chair stated that that all comments relating to the Policy would be welcomed and taken into account.

The Environmental Health Manager presented the report and informed the Committee that the Council did not currently have a written policy covering the licensing of hackney carriages and private hire vehicles and the policy would provide a means of ensuring consistency when making decisions in a transparent and open manner. The policy was being brought to the attention of the Committee for its information with a request to seek permission to publish the document for consultation with key stakeholders as of the 4 November 2014 for a period of 90 days.

Mr Shahzad Abbas Malik addressed the Committee and made the following comments in relation to the draft Policy:

- There was no need for a policy as the Council was not legally obliged to produce a policy and the current system (without a policy) had worked well in the past;
- The report cited Ashford Borough Council but did not mention other Local Authorities which did not have an approved policy;
- The draft Policy did not include any new proposals which would enhance the lives of the drivers, but contained conditions which would socially infringe the drivers;
- The Secretary of State was currently proposing to change national licensing law and therefore the Council should wait until any national policy had been confirmed before introducing its own policy otherwise the Council's policy could contradict national law;
- In his opinion the Council's current procedure allowed officers to take decision which he felt should be the responsibility of the Licensing Committee, and that the Council failed to enforce by-laws;

Following the comments made by Mr Malik, the Environmental Health Manager informed the Committee that although he noted the timing issues in relation to the proposed change in national policy, it was not certain whether those changes would be approved and that the proposed change in national law would only affect private hire vehicles. The Environmental Health Manager stated that the current procedures had not failed to deliver but that the proposed Policy simply collated current procedures into one document with the intention of making taxi policy more transparent to the trade and those applying for a licence. The Chair reminded those present that the proposed taxi licensing de-regulation would be dealt with later on in the meeting.

The Committee considered the draft Policy and the following comments were made:

- The draft Policy should be renamed “Hackney Carriage and Private Hire Vehicle Licensing Policy” as the word “taxi” had no meaning in law;
- The draft Policy currently referred to “criminal records checks”. The means of checking prior convictions had changed and this would need to be reflected in the draft Policy;
- Reference to Certificates of Conduct needed to be included in the draft Policy;
- Reference to “Appendix E” within paragraph 4.2.2 of the draft Policy should be amended to read “Appendix B”;
- Paragraph 5.7 of Appendix K to the draft Policy should include information on how to identify a guide dog;
- Reference to “guide dogs” should be amended to read “assistance dogs”;
- Drivers were able to refuse to transport an assistance dog on medical grounds and reference to that should be included in the draft Policy;
- The Council should consult as widely as possible and it was agreed that guidance would be sought from the Policy Team on the best way to reach as many people as possible;
- It was important that the Policy did not include conditions which infringed on drivers’ quality of life. Drivers were urged to detail any areas of the Policy which they felt did so when they responded to the consultation;
- That more defined signage could be displayed on Private Hire and Hackney Carriage cars to distinguish between the two vehicle types;
- That a condensed guide be produced for drivers which covered the key points of the Policy.

Mr Derek Kearnan addressed the Committee and questioned why drivers who had already completed a Road Passenger Driver Training (Taxi) NVQ certificate were still required to complete the Council’s Disability Awareness Training. The Licensing Officer stated that the Council had undertaken a lot of research regarding the various types of disability awareness training available before introducing the internet based training currently operated by the Council. The Town Access Group had been involved in the consultation process and several questions had been amended as a result. The pass mark for the Council’s Disability Awareness Training was currently set at 75%. The Licensing Officer explained that the Council had spoken with the company which issued the NVQ qualification referred to by Mr Kearnan, but that the company representative had stated that the NVQ did not cover all the issues included in the Council’s Disability Awareness Training. However, the Introduction to the Role of the Professional Taxi and Private Hire Driver (Level 2) BTEC qualification was more thorough and a driver who held the qualification was not required to undertake the Council’s training. The Committee was assured that drivers would not incur any additional financial costs as a result of the introduction of the Policy.

RESOLVED

1. That the Licensing Committee actively participate in the consultation process in the 90 day period;
2. To consult as widely as possible with key stakeholders on the policy at Appendix A to report PES/161 from the 4 November 2014 for a period of 90 days.

9. Taxi Licensing De-Regulation: Letter to the Secretary of State

The Chair informed the Committee that the Secretary of State proposed to de-regulate elements of taxi licensing and that he proposed to send a letter to the Secretary of State expressing concerns at the proposal. The Chair went on to state that the proposed de-regulation has caused disquiet amongst Licensing Officers. The concerns related to practical issues which it was felt put passenger safety at risk. The Chair gladly informed the Committee that since the publication of the agenda, Parliament had removed Clause 10 of the Bill which had proposed that anyone would be able to drive a private hire vehicle when it was 'off duty'. The Committee noted however, that Clause 12 of the proposed Bill remained, which would allow private hire companies to sub contract to other firms if they were unable to fulfil the booking. The Committee was informed that the public, women in particular, were concerned that private hire vehicles could be sub-contracted.

A revised copy of the draft letter was circulated to those present at the meeting and the Committee was asked to comment on its content and agree that it should be submitted to the Secretary of State. The Chair thanked the Licensing Officer and the Environmental Health Manager for their assistance in improving the content of the letter. The Chair drew the Committee's attention to the bullet points on the second page of the letter which detailed the implications the Bill could have on the Council's ability to run, regulate and enforce taxi licensing. The Chair emphasised that the Council's Licensing Officers could only enforce licences of drivers who were licensed by Crawley Borough Council which could lead to a reduction in the current high standards of private hire within the Borough.

The Committee considered the proposed letter and agreed that a letter outlining the Council's concerns should be sent to the Secretary of State. It was agreed that the term "minicabs" should be replaced to read "private hire" within the letter to avoid ambiguity. It was also agreed that the words "outside the district" within paragraph 7 of the letter be replaced to read "outside the Local Authority Boundary".

Mr Shahzad Abbas Malik addressed the Committee and requested that the letter be further amended to express concern that only one private hire company operated from Gatwick Airport and that there was no taxi rank at the airport. Mr Malik informed the Committee that the Law Commission had wanted to create a Hackney Carriage rank at every airport but as that the Civil Aviation Authority and the airport owners had not responded to the Law Commission's consultation, the proposal had not been recommended. Mr Amin Mirza also addressed the Committee and reiterated Mr Malik's point, he was of the view that the current arrangements were not in the public interest as passengers should have a choice in the type of licensed vehicle they could use.

Although the Committee sympathised with the views of both Mr Malik and Mr Mirza, and agreed that customers should be given a choice, they were aware that a change in the hackney carriage and private hire arrangements at Gatwick Airport could raise other issues for Crawley. The Committee was of the opinion that the concerns raised by Mr Malik and Mr Mirza should not be included in the letter before the Committee but should be dealt with as a separate issue. The Committee agreed that the issue should be brought before a future meeting of the Committee for its consideration.

RESOLVED

That the letter (incorporating the amendments shown) attached as an appendix to these minutes be sent to the Secretary of State.

10. Closure of Meeting

With the business of the Committee concluded, the Chair declared the meeting closed at 8.40pm.

M G JONES
Chair

APPENDIX

Please note that additional wording is shown as underlined, and deleted wording is shown as crossed through

Rt Hon Patrick McLoughlin MP
Secretary of State
Department for Transport
Great Minster House
33 Horseferry Road
LONDON
SW1P 4DR

~~15 October~~ 4 November 2014

Dear Secretary of State

Taxi licensing deregulation – Deregulation Bill

I am writing as Chair of the Licensing Committee at Crawley Borough Council to raise my authority's concerns at the proposals to deregulate elements of taxi licensing included within the Deregulation Bill.

We are concerned in particular about ~~clause 10 of the Bill, which would enable anyone to drive a private hire vehicle (PHV) when it is 'off duty', and clause 12, which would enable taxi firms to sub-contract bookings to other firms where they are unable to fulfil them themselves, including to operators licenced in a different district. Most private hire vehicles have permanent and very visible branding, and we do not believe that people will be able to identify when a car is off duty. We believe that clause 10 would increase the risk of individuals or gangs using private hire vehicles to exploit passengers, and particularly vulnerable children.~~

Currently, anyone using a ~~minicab~~ private hire vehicle can travel safe in the knowledge that the only person legally allowed to drive the car will have been through a rigorous council vetting process, including criminal records and medical history checks. We pride ourselves at Crawley Borough Council that we do everything to ensure only people with a clean record are entrusted with the transport of our residents. We also believe that our residents should expect nothing less than that standard.

~~New government proposals within the Deregulation Bill, set to return to the House of Lords next month, will mean minicab licence holders will be able to allow other people to drive their vehicle when they are off duty without any of these checks being carried out.~~

Professor Alexis Jay's recent report into the dreadful abuse perpetuated against children in Rotherham highlighted the role played by PHVs in ferrying children to places where they were abused. In light of that case, the right response is to focus on ensuring that existing controls around taxi licences are applied as rigorously as possible, rather than introducing a deregulatory measure that is not wanted by taxi

driver associations and which would create a new opportunity to exploit users of private hire vehicles. This authority firmly believes that only people who have been vetted and licensed by the local council should be able to pick up passengers within the Borough in drive-private hire vehicles. There appears to be little evidence that the current controls which protect public safety through one local authority regulating a process from a single point are either defective or inefficient.

~~For similar reasons, in~~ My authority is opposed to the proposal to allow ~~minicab private hire operators firms~~ to sub-contract bookings outside the ~~district local authority boundaries~~ in which they are made. Passengers place a significant level of trust in a company when they get into one of their cars, and we therefore believe they have a right to know which company's car they are getting into. As it stands, clause 12 would not ensure this, and we therefore believe it should be withdrawn.

My authority also has concerns that other unintended impacts could include:

- Private hire operators setting up in districts very remote from where they intend to operate due to uncontrollable costs such as property prices. This could place significant burdens on locations that do not have private hire vehicles actually working there and also compromise districts where such activity is actually taking place due to staffing and resource considerations.
- The possibility of pushing licensing authorities towards a position of competing for such business without any regard to public safety matters.
- Private hire companies misleading the public by passing a booking without the knowledge of the hirer to a lower standard supplier than chosen when the journey was booked.

Local government is supportive of the approach of deregulating where possible. But deregulatory measures should always be offset against the potential reduction in the protection that regulation provides, and in this instance we believe the increased risk outweighs the potential benefits. Accordingly, I would therefore ask that Government withdraws these proposals.

Yours sincerely

Cllr Michael Jones
Chair of the Licensing Committee, Crawley Borough Council