



MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE

MEETING DATE Wednesday, 23 November 2016

MEMBERS PRESENT: Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Gordon France, Margaret France, Tom Gray, Mark Jarnell, Hasina Khan, Sheila Long, Adrian Lowe, Mick Muncaster, Kim Snape, Ralph Snape and John Walker

OFFICERS: Lesley Miller (Regulatory Services Manager), Stephen Culleton (Licensing Officer), Tracy, Alex Jackson (Legal Services Team Leader) and Nina Neisser

APOLOGIES: Councillor Keith Iddon

OTHER MEMBERS: Councillor Aaron Beaver

16.LPS.48 Minutes of meeting Wednesday, 21 September 2016 of Licensing and Public Safety Committee

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 21 September be confirmed as a correct record for signing by the Chair.

16.LPS.49 Declarations of Any Interests

No declarations of any interests were received for any of the items on the agenda.

16.LPS.51 Taxi Licensing - Implementation of Vehicle Emissions and NCAP Safety Rating Conditions

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to agree the second consultation and proposed amended phased implementation of vehicle emissions standards and the European New Car Assessment Programme (NCAP) safety rating standards for Hackney Carriage and Private Hire Vehicle licences.

In February 2016 the Licensing and Public Safety Committee agreed in principle to the introduction of a minimum of Euro 5 emissions standards for licensed vehicles to

preserve and protect air quality and to a minimum standards of 4* NCAP safety rating of vehicles to protect public safety as part of the review of the vehicle conditions.

The Regulatory Services Manager informed Members that the Licensing Liaison Panel meeting following this had been productive and the options in the report were considered and proposed.

At the Licensing and Public Safety Committee meeting in July 2016 Members requested further information in relation to the lifespan of vehicles used as Hackney Carriage and Private Hire vehicles. Members were advised that determining the lifespan of vehicles proved difficult due to dependence on age, mileage and maintenance of the vehicle and the business model of the proprietor. Members were also reminded that when considering this, the mileages these vehicles were subject to was in excess of those made by a domestic vehicle, with the average licensed vehicle travelling 1000-2000 miles per week, with an average annual mileage of between 50,000 – 100,000 miles.

Members were informed that 28 MOT tests had been assessed at random which made up around 15 per cent of the whole fleet within Chorley. Findings illustrated that only three of these vehicles had travelled less than 100,000 miles, with very few being longer mileage vehicles. Three vehicles provided clear evidence of good preventative maintenance; two vehicles had six failures, five had four failures and there were six with three failures which consisted predominantly of illegal tyres, worn brakes and failed suspension.

Following this, evidence demonstrated that although the failures were being amended the advisories were not being addressed and numerous vehicles were not being maintained between MOT tests. Ultimately this raised concerns amongst the committee and they noted the information presented. Numerous local authorities do not tolerate MOT results including advisories which indicated the severity of this issue and presented a matter which needed addressing by the committee as consistent failures cannot be accepted.

At the Licensing Liaison Panel officers disregarded a blanket age restriction as this left the council open to challenge if it was to be implemented. Following this, Members discussed the potential options, including the timescales recommended at the Licensing and Public Safety Committee in July 2016.

All the options considered at the Licensing Liaison Panel and those included in the report were considered. After careful consideration it was proposed by Adrian Lowe, seconded by Hasina Khan and subsequently **RESOLVED unanimously to;**

- a) require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet Condition 21 (Emission standards of Euro 5 or above) and condition 22 (NCAP safety rating of 4* or above) from 1 January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application, (as would be required by Option 1 a),**

- b) that where a vehicle is written off due to a non-fault accident, the grandfather rights as described in the report are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle; and**
- c) require all existing vehicles to comply with the conditions 21 and 22 from 1 January 2024 (the timescale proposed by committee members at the previous meeting).**

16.LPS.52 Review of the Council's Policy which Limits the Number of Hackney Carriage Vehicle Licences Issued to 36

The Director of Early Intervention and Support submitted a report advising Members of the Licensing and Public Safety Committee to review the quantity control policy that currently limits the number of Hackney Carriage Vehicle licences the Council issues.

The Council currently has a Policy limiting the number of Hackney Carriage Vehicle licences it issues to 36; this includes provision for 9 Wheelchair Accessible Vehicles (WAV). The Council is not obliged to maintain a limited number of Hackney Carriage Vehicle licences. The Council may determine that the maintenance of the limit is not in the public interest in serving the transport needs of the borough and does not provide an adequate level of service for residents and visitors to the area.

Members were advised that where a limit exists and the Council wish to maintain that limit, the Council must be satisfied that there is no significant unmet demand.

CTS Traffic and Transportation Consultants were appointed for the purpose of undertaking a survey to determine whether or not there was any significant unmet demand for the services of Hackney Carriage Vehicles within the Borough of Chorley and to assess the Public interest in the provision of Hackney Carriage Vehicles within the Borough. In the interest of efficiency a cohesive approach was taken between the Council and CTS which extended to assimilating the questionnaires of the unmet demand survey and of the public interest survey; this enabled a more concise approach to the interpretation of the results that have been evaluated impartially by CTS.

It was noted to Members that the majority of existing WAV Hackney Carriage Licenses were first granted in approximately 2007, following the recommendation of a significant unmet demand report considered at that time, which recommended the issue of 7 WAV HC licenses. Since statistics were available, nine WAV have been added to the fleet. In a similar time period 20 per cent extra hackney carriages have been added to by 90 per cent more private hire vehicles. Market forces have not added further WAV to either fleet, and in fact have recently seen the general accessibility of the WAV in the fleet reduce. The estimated 2015 weekly usage of hackney carriages in Chorley was 3,122 passengers, an increase of 12 per cent since the last survey.

The council survey found a third of people said they had used an out of town vehicle in Chorley. It was clear that hackney carriages were clearly visible and known to people,

just not used; part of this was potentially due to the perceived cost. The impact and influx of such vehicles was reportedly having a detrimental effect on the trading capabilities of the Private Hire and Hackney Carriage Trade in Chorley; this was placing further burdens on officers in relation to enforcement. However, there is no legislative power available to prevent this activity taking place.

The Licensing Enforcement Officer highlighted the challenges of cross-border risks and the 'Uber effect' which had the potential to influence customer decisions to use out of town taxis. The Licensing Enforcement officer informed Members that they had rang care homes around the borough to discover that none of them were using these WAV's – potentially due to their position on the ranks as opposed to operating across the whole Borough. This therefore presented a gap/risk that needed addressing.

The Legal Services Team Leader asked about the availability of ranks and any effect on disabled access provision. The Lead Licensing Enforcement Officer indicated that the report highlighted how there was only one real active rank, in the High Street in Chorley; this location was properly used by Hackney Carriages and not significantly abused by any other vehicles. Observations found 15 per cent of the hackney vehicle movements were WAVs compared to the 25 per cent available in the fleet. On Market Day two people used wheelchair access Hackney Carriages at the rank.

Most of those surveyed knew of the High Street rank, and the only two places new ranks were requested were Chorley Bus Station and the hospital, although this demand was small. Members were invited to instruct the Council to repeat the process of seeking out and appointing additional ranks where necessary but include outlying villages in order to provide a wider service to the public and provide the taxi Trade with more options to operate elsewhere.

Members of the committee were presented with the recommendations. The Legal Services Team Leader advised members that with regards to the Crown Court and High Court, fearing appeal shouldn't inform their decision. Decisions should be legally correct and not made solely on moral grounds. In addition, the Lead Licensing Enforcement Officer drew Members attention to the legal requirements of the decision making process as outlined in paragraph 29 on page 29 of the report.

With regards to the options available the potential risks that Option at paragraph 8C would provide and the challenges this could open the Council up to were highlighted. It was advised that increasing the number of Hackney Carriage WAV licences to as many as Members saw fit could create a tombola effect as was experienced previously. This would present the danger of WAVs operating from the rank only and not serving the wider Borough and the outer community residents.

Furthermore, it was suggested to Members present that they could take this back to consultation, however they were advised that appeal might be more likely if numbers increased to a higher limit as per 8(c). Members were reassured that the Council had strictly followed protocol required for the consultation. It was indicated that the Trade had been included in this consultation and had provided a sound response.

The Legal Services Team Leader queried why the option of further consultation was suggested to Members if the initial consultation had provided an adequate response. The Lead Licensing Enforcement officer said that there had been two schools of thought but a need for further consultation was a matter for members. The relevant officers had been contacted and were satisfied with the conclusions, but members would decide whether further consultation was required to provide further reassurance. Following discussion, Members were satisfied and therefore agreed that no further consultation was required.

Members discussed the feasibility of Private Hire licence holders changing their vehicles to WAVs. Officers recognised the large demand however the extensive undertaking this required was indicated. Members were informed that PHVs had the ability and were entitled to convert to WAVs however evidence suggested they were choosing not to. Therefore to address any unmet demand of WAVs would be best encouraged via HCVs as they present greater scope to do so.

Concerns were raised that Option B needed rewording in order to avoid unintended consequences and avoid the floodgates opening to WAV licence holders. Members were assured that the prohibitive cost of the WAVs alone would be likely to act as a limiting measure to avoid potential 'free-for-all' in addition to conditions implemented to ensure that this would not occur. Members were advised that the intrinsic transfer value of the plate must not be a material consideration in maintaining restricted numbers as the value of the public takes precedence.

The Regulatory Services Manager read out a revised wording of the Option at paragraph 8(b) to make clear that the requirement for wheel chair access would not apply to renewals of the 27 non-WAV hackney carriage vehicles currently benefitting from a licence from the Council.

Subsequently, Cllr John Walker proposed Option B with no further consultation. This would ensure that the current 27 non-WAV vehicles would be maintained and allow the additional application of Hackney Carriage WAVs to the nine at present, but only when all conditions were met. Cllr Anthony Gee supported this and expressed the importance of only allowing special cases to help guarantee that the demand would be met, especially in rural areas.

Initially, Cllr Adrian Lowe proposed a combination of Options C and D which would maintain the limit at 36 however based on Equality and Diversity reasoning as included in the agenda this could be increased where considered significant on a case by case basis. Members were made aware by the Lead Licensing and Enforcement Officer of the potential legal risks of granting a licence on merit which could be challenged in the courts.

Following discussion this proposal was amended to Option D by Cllr Adrian Lowe with no further consultation as maintaining the current system in order to simplify and avoid the aforementioned risk was the favoured option.

Councillor Walker proposed Option B with no consultation. The motion was seconded by Councillor Muncaster. A vote was taken and the motion was lost (4:9:0).

After discussion amongst the committee and careful consideration of all the options it was proposed by Adrian Lowe, seconded by Hasina Khan and subsequently **RESOLVED (7:6:0) to;**

- d) maintain the limited number of HCV licenses the council will issue at 36 with no further additional consultation.**

16.LPS.53 Taxi Licence Fees and Charges - Review of Cost Apportionment

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to approve the advertisement of revised Fees and Charges for Taxi Licensing based on cost apportionment.

The current fees and charges were agreed by the Licensing and Public Safety Committee in July 2014 and following a consultation period came into force on 1 October 2014. The local authority is required to review these fees and charges on a regular basis.

Over the last two years there have been a number of changes to the way the Council processes applications and therefore, in order for the fees and charges to reflect the costs of service, it is important to review them in a timely manner to ensure they accurately reflect those costs. The council must ensure that they meet legislative requirements with regard to the structure of the fees and that the fees are not used to raise revenue and any surplus or deficit is carried forward on a 3 year cycle. Revised fees must be subject to an advertising period of a minimum of 28 days within the local press and consideration of any objections by members.

The Regulatory Services Manager requested that Members of the committee approve the advertisement before bringing back to a future committee. It was anticipated that the finalised figures would be available imminently and would be circulated to members.

After careful consideration it was proposed by Adrian Lowe, seconded by Anthony Gee, and subsequently **RESOLVED;**

- 1. to approve in principle the advertisement of revised Fees and Charges for Taxi Licensing based on the principle of cost apportionment.**
- 2. that the Regulatory Services Manager reports back to the next appropriate Licensing and Public Safety Committee the outcome of the advertisement, consider any objections and agree the implementation of the new Fees and Charges at that meeting, so that the new fees and charges can be effective from 1 April 2017.**

16.LPS.54 Safeguarding Training for Taxi Trade

The Regulatory Services Manager provided a verbal update which reminded Members of the Safeguarding Training for the Taxi Trade that had been taking place following the decision at the Licensing and Public Safety Committee held in July 2016.

Members were made aware that 230 members of the taxi trade had attended the free training sessions. 30 remained who had not undertaken the training.

The Regulatory Services Manager had contacted these remaining members of the taxi Trade via letter to remind them that this was the final opportunity to undertake the training free of charge. They were advised that if they did not accept the free training they would have to finance their own training.

Members were informed that future online training as suggested at the previous Licensing and Public Safety meeting was being looked into and the options were being assessed.

It was AGREED that the report be noted.

16.LPS.55 New DBS Arrangements for Taxi Trade

Members were reminded of the letter the council received in the summer of 2016 regarding the decision that the Council would lose its umbrella status meaning we would be unable to provide DBS checks.

The Licensing Enforcement Officer provided Members with a verbal update on their work to find an alternative method to delivering the DBS Service. An E-bulk alternative had been found via a service level agreement with Personnel Checks that would be reviewed in 6 months' time to track progress. However it was reported that the early stages had provided positive feedback.

It was AGREED that the report be noted.

16.LPS.56 Alternative DVSA Arrangements

The Licensing Enforcement Officer presented Members with a verbal update regarding a letter previously received from DVSA on 2 September which informed that the tests required by the Council were going to be withdrawn. Due to no available bookings, this meant that licence holders were unable to take the test from mid-October onwards.

Following research, findings suggested three alternative companies to be used within the local authority which met the standards required. The council concluded to take on all three to provide the taxi trade with the choice. These were now in place to be operated.

It was AGREED that the report be noted.

16.LPS.57 New Immigration and Identification Checks for Licensing

The Licensing Enforcement Officer verbally informed members of a Home Office meeting they attended regarding immigration of the taxi trade.

In order to apply for a licence the council must conduct face-to-face interviews and the applicant must provide all relevant documentation. The Council must take a coloured copy of these documents (this can be a colour scan, rather than a hard copy).

Members were informed that this exercise would not be implemented retrospectively but would be adopted at renewal. Where a licence automatically lapses, the licence holder has a duty to surrender it with the council.

It was AGREED that the report be noted.

16.LPS.58 Consultation on the Part Time Relocation of the High Street Taxi Rank

The Director of Early Intervention and Support submitted a report to update the Licensing and Public Safety Committee on the planned changes as part of the Market Walk Extension and wider town centre improvements; to set out the reasons for seeking to relocate the High Street taxi rank on Market days (Tuesday) and to set out a consultation plan for approval.

In September 2016, the Council as landowner gave approval to proceed with the development of a seven unit extension to Market Walk. Public consultation on the relocation of the markets has been held over the last month, from 4 October to 6 November with over 200 online responses as well as feedback which has been collected during a number of face to face consultation sessions and briefings. The current proposals from this would see market stalls located throughout the town centre and the introduction of market stalls onto High Street on Market day (Tuesday) would necessitate the temporary relocation of the taxi rank from High Street.

It was proposed to committee that instead taxis could operate from around the corner on Cleveland Street where there is an existing evening rank, and extend this to between 6am and 6pm on Market Days (Tuesdays). The proposal was considered due to its location close to the existing market site and taxi rank and would ensure that all existing permanent stall holders could have a position, as well as accommodating the current levels of casual traders. Following discussion regarding the precise hours at which the High Street rank would cease to operate on Market Day it was agreed that this would be a matter to be considered subsequent to the consultation.

Members of the committee were informed that in addition to the proposed changes to the hackney carriage rank location, there were a number of other changes to TRO's which would be required. These changes were a Highways Authority function under the Road Traffic Regulation Act 1984. It was advised that following consultation the Members of the Licensing and Public Safety Committee could seek to influence the Lancashire County Council on this.

Members were informed that subject to approval, it was proposed to commence the public consultation from 24 November for a period of eight weeks, up until the 22 January 2017. During this period, face to face consultation would take place with Members of the Licensing Liaison Panel (LLP).

The Lead Licensing Enforcement Officer indicated that following this consultation period the findings, together with any updated plans for regarding the taxis ranks, would be brought back to the Licensing and Public Safety Committee for final approval. The aim would be to have approval in place in advance of the Markets relocation in Easter 2017.

After careful consideration it was proposed by Adrian Lowe, seconded by Gordon France, and subsequently **RESOLVED unanimously to;**

- 1. note the update on the town centre improvements;**
- 2. note the proposed changes requested by Chorley Council to the Traffic Regulation Orders (TRO's) regarding prohibition of vehicles and changes to loading bays on High Street and Cleveland Street, which are the responsibility of the Highways Authority; and**
- 3. approve the plan to consult on the proposed changes to the High Street taxi rank location, which is the responsibility of the Licensing and Public Safety Committee under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.**

Chair

Date