

LICENSING AND REGULATION COMMITTEE

14 January 2016

Attendance:

Councillors:

Mather (Chairman) (P)

Bodtger (P)

Burns

Green (P)

Huxstep (P)

Izard

Johnston (P)

Laming (P)

Lipscomb (P)

Mason (P)

Newman-McKie (P)

Thacker (P)

Twelftree (P)

Wright (P)

1. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee, held on 26 November 2015, be approved and adopted.

2. **PUBLIC PARTICIPATION**

Mr Mahmood Ahmed, a representative of the Hackney Carriage Drivers Forum was in attendance at the meeting. He had made written representation on behalf of fellow Hackney Carriage Drivers in respect of Item 3 and he addressed the Committee in respect of Item 4. A summary of his comments are contained within the relevant item below.

3. **REVIEW OF PRIVATE HIRE OPERATOR LICENCE CONDITIONS – COMMENTS FOLLOWING CONSULTATION**

(Report LR461 refers)

The Committee referred to an updated version of Appendix 1 to the Report which was circulated at the meeting and is attached as an Addendum to the minutes. Appendix 1 incorporated in track changes the proposed amendments to the Private Hire Operator's Licence Conditions, which had been suggested following consultation with Winchester's Hackney Carriage Drivers since the Committee approved the draft at its meeting on 8 October 2015.

The Licensing Manager brought to the attention of Members the comments received by Mr Mahmood Ahmed, representative of the Hackney Carriage Forum, as set out in Appendix 2. The letter proposed changes to the Private Hire Operator Licence Conditions with additional wording be added to condition 10 to read '...at all reasonable times **and at reasonable cost**', and

that an additional condition 13 be included to require an operator to supply details of an alternative operator licensed by Winchester City Council and that condition 21 of the draft document remain, as outlined in the Report and set out in Appendix 1.

In response to Member's concerns, the Licensing Manager agreed that with the suggested wording change to condition 10 it would be difficult to define as reasonable costs varied across the District, making it unfeasible to enforce.

RESOLVED:

That the copy of Appendix 1, circulated at the meeting, be attached as an Addendum to the minutes and approved for adoption, subject to the following amendments:

- (i) That the additional wording suggested to condition 10, in reference to 'and at reasonable cost', as set out above, be removed; and
- (ii) That the wording of condition 21 be revised to read as follows: 'The Operator may only sub contract any accepted booking to another licensed private hire operator'.

4. **REVIEW OF STATEMENT OF LICENSING POLICY WITH RESPECT TO HACKNEY AND PRIVATE HIRE VEHICLES, DRIVERS AND PRIVATE HIRE OPERATORS – COMMENTS FOLLOWING CONSULTATION**
(Report LR462 refers)

The Committee considered an updated copy of Appendix 1 to the Report which incorporated in track changes the proposed amendments to the Statement of Licensing Policy with respect to Hackney and Private Hire Vehicles, Drivers and Private Hire Operator, following consultation with all Hackney Carriage and Private Hire Drivers and Operators since the Committee approved the draft at its meeting on 8 October 2015.

It was reported that during the consultation period, one letter had also been received, as set out in Appendix 2 of the Report, which proposed changes to the Policy, specifically in relation to the transportation of wheelchairs. The Licensing Manager drew Members' attention to the references to particular requirements within the letter which related to two particular authorities who had their own legislation and were not specific to Winchester.

At the invitation of the Chairman, Mr Ahmed addressed the Committee. In summary, Mr Ahmed made reference to the NVQ/BTEC qualifications he had obtained and outlined his knowledge of the training in the relation to the secure and safe transportation of wheelchair users.

In light of Mr Ahmed's comments, the Licensing Manager reported that in previous years the Government had made provision available to enable drivers to attain such qualifications, but this funding stream had now been

withdrawn. The Committee had previously been consulted upon this matter and had concluded not to make this training mandatory due to significant costs which would be incurred by the drivers to undertake the training going forward.

In response to Members' concerns regarding National Standards and/or an EU Directive for wheelchair vehicular access and safety compliance, the Licensing Manager stated that as part of the process, the Council ensured that vehicles were signed off for safety as part of the M1 specification which was enforced. However, it was unclear if this specification was solely for vehicle safety or if this was also specific to wheelchair adaptation too. The Licensing Manager agreed to clarify the legislation on this matter and bring forward the information for the Committee to give further consideration to the Report at a future meeting date.

RESOLVED:

That the Report be deferred for consideration at a future meeting of the Licensing and Regulation Committee to enable the full information to be made available to Members on the status of legislation and EU Directives regarding the carriage of disabled passengers and the necessary vehicle standards required for the purposes of Health and Safety.

5. **REVIEW OF STATEMENT OF LICENSING POLICY – THE LICENSING AUTHORITY'S DUTY TO CONSIDER THE PURPOSES OF THE SOUTH DOWNS NATIONAL PARK (SDNP)**
(Report LR463 refers)

Councillor Lipscomb declared a disclosable pecuniary interest in respect of Item 5 as he was the Council's appointee on the board of the South Downs National Park Authority (SDNPA). However, as there was no material conflict of interest in this item, he remained in the room and spoke and voted under the dispensation granted by the Monitoring Officer on behalf of the Standards Committee.

The Committee considered an updated copy of Appendix 1 to the Report which incorporated in track changes the proposed amendments in the Review of the Statement of Licensing Policy with respect to the purposes and duties of the South Downs National Park (SDNP).

The Licensing Manager drew Members' attention to the various amendments made and the consultation process that would be followed, with comments to be reported back to the next meeting of the Committee, prior to adoption by Council.

During debate, several Members suggested revised wording to paragraph 2 of 1.7 to read as follows: 'The licensing authority will have regard to the SDNPA duties and purposes when considering applications to ensure they are respected'.

RESOLVED:

1. That the reviewed Licensing Policy, set out in Appendix 1, be approved for consultation, subject to the following amendments:

- (i) That the wording to paragraph 2 of 1.7 be amended to read: 'The licensing authority will have regard to the SPNPA duties and purposes when considering applications to ensure they are respected';
- (ii) That the following typographical correction be made within 1.8 that paragraph 4 reads: 'The Licensing and Regulation Committee, where appropriate, will provide reports to the Planning Committee about licensed premises in the area including the general impact of alcohol-related crime and disorder'.; and

2. That, following the consultation period, should no representations be received and subject to any amendments by the Committee, Appendix 1 be recommended to Council for adoption.

6. **MINUTES OF LICENSING SUB-COMMITTEE HELD 16 DECEMBER 2015 (LESS EXEMPT MINUTE)**
(Report LR464 refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee (less exempt minute) held 16 December 2015 be received (as attached as Appendix A to the minutes).

7. **EXEMPT BUSINESS**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
##	Exempt minutes of the Licensing Sub-Committee held 16) Information relating to any individual. (Para 1 Schedule 12A refers)

December 2015)

8. **EXEMPT MINUTE OF LICENSING SUB-COMMITTEE HELD 16 DECEMBER 2015**

(Report LR464 refers)

RESOLVED:

That the exempt minute of the Licensing Sub-Committee held 16 December 2015 be received (as attached as Appendix A to the minutes).

The meeting commenced at 6.30pm and concluded at 7.45pm.

Chairman



Private Hire Operator's Licence Conditions

These conditions are made under section 55(3) Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The holder of a Private Hire Vehicle Operator's licence shall observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II, and any orders or regulations made thereunder and the requirements of any other Act of Parliament or orders, regulations or byelaws made thereunder relating to the operation of the motor vehicles.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

Interpretation

In these conditions

"Assistance Dogs" means as defined in Section 37A(2) Disability Discrimination Act 1995.

"Authorised Officer" means any officer of the Council authorised in writing by the Council for the purpose of these conditions.

"Private Hire Vehicle" means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers.

"the Act" means Local Government (Miscellaneous Provisions) Act 1976.

"the Council" means Winchester City Council.

"the Driver" means a person licensed to drive a hackney carriage and private hire vehicle under Section 51 of the Act.

"the Operator" means the person to whom the Council has granted the Private Hire Operator's Licence to which these conditions apply. In the case of a partnership these conditions apply to each of the partners and in the case of a company to each of the company directors.

The Operator shall be familiar with the conditions and apply them at all times.

1. Any vehicle employed or used by the Operator shall be licensed by Winchester City Council before it is used as a private hire vehicle.

Records to be kept by the Operator

2. The records required to be kept by the Operator under Section 56(2) and (3) of the Act shall be kept in a book, electronic file or other form approved by the Council, and produce on request to an Authorised Officer for examination.
3. The Operator shall record before the commencement of each journey, the following particulars of every booking of a private hire vehicle accepted:-
 - a) the name and pick up point of the hirer
 - b) the time and date of the booking
 - c) the time and date of the pick up and the call sign of the vehicle used
 - d) the name and licence badge number of the Driver dispatched
 - e) how the booking was made (i.e. by telephone, personal call, etc)
 - f) the destination
 - g) fare quoted or to be charged by the meter and in either case to include call out or return fee
4. The Operator shall keep copies of all hackney carriage and private hire driver and vehicle licences operated.
5. The Operator must inform the Council of the names and licence badge number of all drivers operated by him/her within 7 days of the arrangement.
6. The Operator shall keep a record of all vehicles and their call signs.
7. The Operator shall keep a copy of the letter of exemption issued by the Council of all private hire vehicles that are exempt from displaying a licence plate.
8. The Operator shall keep all records for a period of at least 12 months following the date of the last entry.
9. If the telephone number of the operating company is diverted to a person outside of the operating premises at any time, that person must record all bookings as in 3 above. These records must be added to the full record within 48 hours.

Standard of service

10. The Operator shall provide a prompt, efficient and reliable service to the public at all reasonable times, in particular shall ensure that the hirer is aware of the fare for the journey, or whether it is to be metered and in either case to include any call out or return fee.
11. The Operator shall ensure that when a private hire vehicle has been booked the Driver attends at the appointed time and place punctually, unless delayed or prevented by sufficient cause.
12. Any premises to which the public have access, whether for the purpose of booking or waiting, the Operator shall keep clean, adequately heated, ventilated and lit premises which the Operator provides.
- 12.13. The Operator shall notify the customer if their booking is to be sub-contracted to another Private Hire Operator and provide the sub-contracted Operator's name and telephone number to the customer.

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Fares

~~13.~~14. If a minimum fare is to be charged, the Operator shall ensure that each customer is informed at the time of booking. If no fare is quoted, the meter shall be used to calculate the fare and the Driver shall not demand more than the fare shown on the meter. The meter shall not be started until the customer is seated in the vehicle.

Provisions regulating signs on vehicles

~~14.~~15. The Operator shall ensure that any licensed private hire vehicle shall not display any advertisement that includes the words 'taxi', 'cab' or words of a similar meaning.

Conduct of the Operator

~~15.~~16. The Operator shall immediately upon receipt notify the Council in writing of any complaints concerning the conduct of a driver or the cleanliness/condition of a vehicle.

~~16.~~17. The operating address shall be located within the County of Hampshire.

~~17.~~18. No Operator shall change the operating address without prior agreement in writing from the Council.

~~18.~~19. The Operator shall notify the Council in writing of any change of operating address during the period of the licence within seven days of such change.

~~19.~~20. The Operator shall provide details to the Council in writing within seven days of the date of any caution or conviction he/she receives.

~~20. The Operator may only sub-contract any accepted booking to another private hire operator licensed by Winchester City Council.~~

21. The Operator shall not refuse any booking made for carrying wheelchair bound passengers without reasonable cause and shall ensure that each of these bookings is carried out.

22. The Operator shall not refuse any booking nor apply any additional charge for carrying Assistance Dogs without reasonable cause and shall ensure that each of these bookings is carried out.

Appeals

23. The Operator may appeal against the imposition of any of these conditions.

24. The Operator/applicant may appeal against the refusal to grant or renew a licence, or the suspension or revocation of a licence.

25. Any appeal should be made to the Magistrates Court within 21 days of the refusal to grant or renew a licence, or the suspension or revocation of such a licence.