



Licensing Committee minutes

Minutes of the meeting of the Licensing Committee held on Wednesday 15 June 2022 in The Oculus, Buckinghamshire Council, Gatehouse Road, Aylesbury HP19 8FF, commencing at 6.30 pm and concluding at 8.20 pm.

Members present

D Barnes, T Green, N Rana, N Southworth, B Stanier Bt, D Town, G Wadhwa, D Watson and A Wood

Apologies

J Baum, P Griffin, C Jones, J Rush, J Towns and H Wallace

Agenda Item

1 Apologies for absence

Apologies were given from Cllrs Baum, Griffin, Jones, Rush, Towns and Wallace.

2 Appointment of Vice-Chairman

The Principal Committee and Governance Services Officer reported (in the Chairman's absence) that the Chairman had confirmed that Cllr Dominic Barnes be appointed Vice-Chairman for the Licensing Committee for the ensuing year. Cllr Dominic Barnes chaired the meeting.

3 Declarations of interest

There were no declarations of interest.

4 Minutes of the previous meeting

The Minutes of the Meetings held on 2nd February and 18 May 2022 were agreed as a correct record subject to the inclusion of Cllr Barnes and Southworth under Members present.

A Member highlighted the estimated figure of 1200 problem gamblers in Buckinghamshire and queried how the Council intended to respond. The Cabinet Member agreed to discuss this with officers and to see how Buckinghamshire compared to other local authorities and what action was being taken in relation to the Council's policy.

5 Regulation of Cosmetic Piercing and Skin-colouring business

The Licensing Committee received a report on the regulation of cosmetic piercing

and skin-colouring businesses. The Environmental Health Manager reported that the Local Government (Miscellaneous Provisions) Act 1982 enabled local authorities to charge reasonable fees for the registration of persons carrying out the business of skin piercing and the premises in which these activities took place. The fee covered the initial inspection(s) associated with registration, checking training qualifications and competency of the operator, advising the business about the requirements of the byelaws and best practice, and associated administration. Currently there were different registration charging structures across the legacy areas and approval was sought for the adoption of a common charging policy.

Members noted the following points:-

- Benchmarking with neighbouring authorities showed similar disparities in charging structures.
- There was no statutory requirement for public consultation when setting fees under the Act and it was for this Committee to agree these fees. Fees should be set at a level to ensure full cost recovery whilst also being fair and providing value for money for the businesses. Councils were required, however, to take a reasonable and proportionate approach and should aim to set a fee level that was sufficient to cover the cost but not make a surplus.
- Fees should be reviewed on an annual basis, taking into account of any increase in the Retail Price Index (RPI) and where appropriate, an increase would be applied to the fees to recover related increased costs to the Council.
- Since there was a disparity across the Buckinghamshire district in terms of the adoption of the registration provisions in the Act and the adoption of byelaws for cosmetic piercing and semi-permanent skin-colouring, work was currently taking place to allow a further report to be presented recommending the provisions of sections 14 – 17 of the Act being adopted, to ensure harmonisation of registration provisions and that byelaws for cosmetic piercing (piercing of the body including the ear), semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing, electrolysis and acupuncture were made in accordance with the necessary procedures and for these to be confirmed by the Secretary of State for Health and Social Care and that once confirmed, that the related existing legacy byelaws would be revoked.

The following application fees had been proposed:-

Registration of premises and proprietor	£220
Registration of an additional operator	£60
Replacement copy or administrative changes to a Certificate	£30

During discussion the following points were made:-

- Confirmation was given that the Council was unable to make a surplus. The fees proposed were consistent with neighbouring authorities.

- It would be helpful to have an idea of the number of businesses who might apply for this registration to gain an idea of total income. In response it was noted that for 2021 there were applications for 11 operators and 72 premises. The income for that year was approximately £12,000. It would be difficult to compare as it was not a standard year but the budget would be monitored to ensure income covered expenditure.
- In terms of enforcement of registrations, this was usually in response to complaints, but a proactive approach would be looked at as part of the process of adopting byelaws and harmonising policies and processes across the legacy Council areas. Environmental Health Officers have a constant presence on the High Street as part of their day-to-day role and would identify, and give advice to, any new premises that had set up. Other existing businesses may also flag if a new premise did not have a registration.
- A question was asked when legacy Councils had their last fee review. Chiltern and South Bucks District Councils may have reviewed their fees four years ago, but a written response would be given for clarity.
- A Member commented that the fee structure should allow for resources for inspection. The public have a right to ensure that the premises were fit for purpose. The Environmental Health Manager gave assurance that every premises that applied for a registration was inspected and that was incorporated in the fee, for example to check on cleanliness and sterilisation arrangements and any reactive inspection was as a consequence of a complaint.
- Clarification was given that skin lightening, if done at home or by a medical practitioner, would fall to the Health and Safety Executive (HSE) and was not part of these regulations. If in a salon, then inspections would be conducted by the local authority but would not be registered under the Act.
- A question was asked about individual operators and checking the operator through surprise visits. The Environmental Health Manager reported that the inspection programme was risk based and Councils had been advised by the HSE as to which health and safety topics should take priority. The Environmental Health Officers would be monitoring any new premises as part of their daily role when visiting other premises in the High Street or if any concerns were raised by members of the public. Operators could be freelance however they could not be peripatetic and would need registered premises. It could be mobile e.g. a van that meets requirements (and which would have been inspected). A Member suggested that the Cabinet Member could look into this issue as there could be 5 freelancers operating in one building but only 3 of them might be licenced. It was an offence to operate without a registration. The Environmental Health Officer would take action against an operator if this happened to be the case.
- Under this legislation, which operates through compliance with byelaws, the penalties for non-compliance tend to be lower (maximum £1000). A stronger enforcement approach, and for activities which aren't covered by a registration, would be to use the Health and Safety at Work Act and action could be through the service of improvement notices or if there was an imminent risk of personal injury, prohibition notices could be served

preventing an activity with immediate effect.

On a vote being taken the recommendation was proposed by Cllr Southworth and seconded by Cllr Green and:-

RESOLVED that the harmonised fees be approved for the registration of persons who undertake skin piercing and related activities and the premises where skin piecing and related activities take place with effect from 1st July 2022.

6 Hackney Carriage and private hire licensing enforcement update

The Licensing Committee received an enforcement update on the implementation of the Council's new hackney carriage and private hire licensing policy, (the "Policy") in September 2021. The Licensing Service committed to provide routine reports to the Committee related to application of the Policy. More specifically, the intention was to provide annual performance reports supplemented by quarterly reports on enforcement activities, the outcome of court proceedings and statistical data on licences issued.

The Principal Licensing Officer reported that the introduction and implementation of the new Policy, together with the corresponding alignment of service provision across the former District Council's controlled areas, had been a significant undertaking with many challenges. Council officers and the local taxi and private hire trade have had to adjust to new procedures and ways of workings as a consequence of the policy changes. Throughout this period, robust measures have remained in place to ensure that, in line with statutory and best practice guidance, only those considered fit and proper to hold licences were permitted to do so.

The Principal Licensing Officer went through the report and the following points were highlighted: -

- On 31st March 2022, 2059 vehicles were licensed with the Council. During the reference period the Council received 1553 licence applications for vehicle licences. Of this figure, 486 applications were for new licences and 1067 were applications to renew existing licences. 22 of the refused vehicle applications relate to vehicles that failed to meet the Council's Policy requirement. Specifically, these applications were submitted for vehicles that had been deemed category S (structural) vehicle insurance write offs. In all instances, as was required, applicants were offered the opportunity to make representation before a final decision was taken. With respect to the rejected applications, applications were rejected for a variety of reasons but often because they were not complete and valid. Where possible officers try to avoid rejecting applications and support was provided to help encourage applicants to submit valid applications.
- On 31st March 2022, 3013 drivers were licensed with the Council. During the reference period, the Council received 728 driver licence applications: 143 from new drivers and 585 from drivers applying to renew. 5 applications received during the period were refused on the basis that officers were not

satisfied that the applicants could be considered fit and proper to be licensed with reasons such as driving without appropriate insurance, mobile phone conviction or failed to disclose licence refusal. 66 applications were attributable to applicants submitting multiple incomplete applications. 28 applications were referred to an officer for further investigation as issues of concern had arisen during the application process.

- On 31st March 2022, 219 private hire vehicle operators were licensed with the Council. During the reference period, the Council received 29 new and 43 renewal operator applications. The 29 rejected applications were mainly attributable to applicants submitting multiple incomplete applications.
- In addition to determining applications, the Licensing Service regulates taxi and private hire operations through reactive and proactive activity. Reactive work was typically in response to incident reports and complaints received from members of the public, other agencies within and external to the Council, and from members of the taxi and private hire trade. Proactive work was typically pre-arranged activities, often based on intelligence, and may involve targeting locations and/or activities such as large events, areas used by the potentially vulnerable such as schools, or specific operations such as “plying for hire” and multi-agency visits. Since the implementation of the new Policy, most of the activity had been reactive, with more proactive activity planned over the coming months. The Licensing Service had revised the Council’s online reporting system, available via the Council’s web pages, which now integrated directly with the back-office system used within the service. 99 recorded complaints were received by the Licensing Service during the reference period. Between 1st January 2022 and 31st March 2022, 56 complaints were received relating to areas such as driving standards, behaviour, parking, safeguarding and vehicle condition. There were only 2 safeguarding complaints.
- During the reference period, 6th September 2021 to 31st March 2022, 58 investigations were instigated in respect of drivers and 3 in respect of operators. The latter 3 investigations relate to instances of failure to notify changes of company directors and concerns relating to vehicle maintenance. In respect of drivers grounds for investigation related to areas such as accidents, driver behaviour, driving standards and offence related. During the reference period, 8 drivers had their licences revoked, one of which was currently under appeal via the Magistrates Court. During the reference period, 14 drivers had their licences suspended one of the main reason being failure to provide an outstanding medical certificate.
- During the reference period 605 vehicles were suspended. Vehicles were suspended for a wide variety of reasons but most typically on annual inspection where the vehicle did not meet the Council’s Policy standards but there was no immediate risk to passenger safety. In accordance with the legal provision, once served with a notice the vehicle proprietor had 21 days to rectify the issue before the suspension takes effect. During the reference period 14 vehicle licences were revoked. The grounds for revocation of these vehicles included significant accident damage or vehicles not in a road worthy condition.

- During the reference period, 2 operator licences were revoked. These licences were in respect of the same operator, who held separate licences with 2 of the legacy Council areas. The grounds for revocation were a series of issues including safeguarding concerns, failure to notify change of operating base and operating with unlicensed drivers.
- During the reference period 3 appeals were served on the Magistrates Court. 2 cases were heard on appeal at the Magistrates Court. In October 2021, Magistrates upheld the Council's decision to revoke a driver's licence on grounds that included conviction for illegal plying for hire by another authority, failure to inform the Council of the conviction and failure to disclose a speeding conviction. The appellant was ordered to pay £560 towards the Council's costs (£1917). In February 2022, Magistrates allowed an appeal, overturning the Council's decision to revoke a driver's licence on the basis that the driver had been dishonest and demonstrated poor standards of driving. The hearing was adjourned immediately following the judgement with reasons for the decision and legal argument regarding costs still to be heard.
- With the new Policy Councillors agreed that decision making on licensing applications would be delegated to Council officers, as permitted under the Council's constitution. The basis for this decision was that Buckinghamshire Council was one of the largest taxi licensing authorities in the country with a large number of applications received per annum. The Policy currently stated that, as part of the decision-making process, applications would "generally" be considered by a panel of Council officers tasked with making a recommendation to a senior officer who would then make the final decision. In practice this panel step had proved to be impractical, causing delays in the decision-making process, without any significant tangible benefit. As a result, the decision-making process had recently been thoroughly reviewed by senior officers of the Council's Licensing Service and Legal Services and the consensus view was that the recommendation of a decision by a panel of officers was an unnecessary step in the current process that created duplication and delay, and negatively impacted licence holders and applicants. It was proposed that instead, the final decision on issuing a licence should fall to an individual authorised officer with the necessary training, skills, competence, and experience to make the decision. In accordance with the Council's constitution, minor changes to the Policy, where formal consultation was not considered necessary, may be made with the agreement of the Chairman of the Licensing Committee, Cabinet Member for Regulatory Services, and the Head of Service.

During discussion the following points were noted:-

- A Member asked, in addition to the number of new applications and licences granted, would it be possible to report the number of licences not renewed, lapsed or surrendered. In addition he asked why the fee was refunded if the licence was refused. If the Council was aiming to be cost neutral then the fee should still be applied for administration of applications. The Principal Licensing Officer reported that where possible the service recouped the costs

such as through the driving assessment tests, which the drivers booked themselves. However there was a legal provision that if a licence was not granted then the Council could not retain the fee. A Member expressed concern that this gave the Council an incentive to grant the application to keep the fee. The Head of Service reported that this incentive did not exist within the service but that they tried to process applications as quickly as possible whilst prioritising public safety. When an application was received it went through a series of checks which could be a lengthy process as the Council needed to rely on other information and intelligence from other agencies e.g if the driver was already licensed in another local authority area. However, the service area had looked at streamlining the process through their digital systems.

- In reference to the fee costs, the Head of Service reported that a decision had already been made on fees by the Committee and currently the driver licence fees was £303 (every 3 years).
- A question was asked how the Council found out about prosecutions such as speeding fines after a licence had been granted. The Principal Licensing Officer reported that this was a challenging aspect and that it was difficult to monitor prosecutions during the course of a licence period. However, DVLA checks were undertaken on renewal and if a prosecution or other offence was discovered this may be grounds to refuse the licence. Reports could also be made by members of the public, police and other drivers.
- There was typo in paragraph 2.18, the number of categorised complaints is less than the total number. The total number of complaints received should read 54, not 56.
- A Member expressed concern that some drivers might submit applications which were likely to be refused because they had for example not disclosed a speeding fine. This would waste officers time, could be vexatious and in addition the fee would need to be refunded. The Head of Service reported that every application had to be looked at on its merits, for example a previous conviction may no longer be relevant as it was spent. Another Member suggested that this issue could be referred to the Local Government Association Licensing Committee with the view to lobby Government to change the law so the fee for failed applications could be retained.
- A Member questioned the fee levels that had been set for taxi licensing by the Committee the previous year with the new policy whether the Council was operating at a surplus or a deficit. In addition with the 605 vehicles which were suspended whether there was any geographical areas which were significantly worse than others. A final question was asked about the level of evidence required to obtain a prosecution against a driver or operator. In response the Head of Service reported that in terms of income and expenditure it was too early to tell at this moment in time and a report would be submitted to Members at the end of the financial year. Any remaining legacy reserves had been utilised at the end of the financial year (as had been advised would be the case) so for this financial year the service area had started afresh. Budgets currently seemed in line with what was expected and were so far relatively steady, however because licences were

renewed at different points throughout the year it was difficult to obtain a totally clear picture e.g. Wycombe had peak applications times in March and October. A Member asked for a breakdown in each area on whether the Council was cost neutral as this would provide useful information on whether any fees should be reviewed. The Head of Service reported that with applications that were renewed 3 or 5 yearly a longer time period was required for analysis. In terms of suspended vehicles, it was difficult to analyse geographical areas as the Council was now unitary. However, drivers were encouraged to prepare their vehicles before testing. The Service area tries to drive up standards through regular newsletters to the trade. Finally in response to the question on investigations it would be helpful to have the operator name, who should have a detailed record of each of their bookings and the Council would expect to be provided with details on the driver and the vehicle they were driving. The date and time of the incident would also be helpful. Customers should not be deterred from reporting any concerns if they did not have all those details to hand but should provide as much information as they could. The Principal Licensing Officer reported that if any complaints were made they would look at the operator's records which they were legally obliged to keep. Some customers may not wish to take the complaint further but information was still helpful as it was kept on record and would be considered when the licence was renewed as to whether the driver was fit and proper.

- A Member suggested that it was important to focus on the majority of taxi drivers who complied with the Policy and provided a good level of service. The Head of Service agreed that the vast majority of drivers did comply and that enforcement activity was focused on the minority. During the pandemic some other local authorities had arranged a reward scheme for drivers around Covid cleanliness of vehicles, however as Buckinghamshire was such a large authority this would be difficult to administer. The Service area would like to consider similar reward and recognition initiatives in the future. They were currently looking at an Operator Engagement Programme to ensure a direct line of communication between Operators and the Service.
- A suggestion was made that there should be quarterly reports.

On a vote being taken, the recommendation being proposed by Cllr Green, seconded by Cllr Towns it was:-

RESOLVED that

- 1. The contents of this report be noted including the matters for inclusion/exclusion in future enforcement update reports.**
- 2. The frequency of reporting on hackney carriage and private hire enforcement activities be quarterly to the Licensing Committee.**
- 3. The Committee note a recommendation from the Head of Service to the Chairman of Committee and Cabinet Member that the officer panel step be removed from the decision-making process by way of a minor amendment to the Policy.**

7 Update on Hackney Carriage Fares

The Committee received a report on Hackney Carriage Fares. Where tariffs were set by the local authority, drivers of hackney carriage vehicles (taxis) cannot charge more than the fare specified on the meter apart from in certain exceptional circumstances, although they could charge less. Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 set out the process and requirements for the fixing of fares, which included the requirement for advertising and a statutory 14 day consultation period. The new Buckinghamshire Council Taxi and Private Hire Licensing Policy came into force on the 6th September 2021 and the Policy removed the previous legacy area hackney carriage zones thereby leaving one single operating zone. As a result, a new single set of hackney carriage tariffs was also implemented on the 6th September 2021 for all drivers of hackney carriage vehicles in Buckinghamshire.

Given that the new tariffs were implemented relatively recently, it was intended that the next review would take place in April 2023. However, given the significant recent increases in fuel prices, along with requests from the hackney carriage trade, it was considered appropriate and necessary to carry out a review now to ensure that drivers were able to earn a fair wage whilst also balancing the cost of any increase to passengers. This was an issue which was affecting authorities across the country with many local and national licensing authorities currently in the process of reviewing and increasing their hackney carriage tariffs as a result of recent trends in fuel prices.

In order to obtain the views of the hackney carriage trade as a whole and to clarify whether there was a consensus on the issue across the trade generally and also in different Council areas, officers carried out a short pre-engagement survey in May 2022 which asked specific questions on whether or not each of the tariffs should be increased and the reasons for the answers provided. 57 responses were received which reflected a broadly similar response rate across the previous legacy areas with 7 responses received from the Aylesbury area, 16 from the Chiltern area, 15 from South Bucks and 11 from the Wycombe area. It was not possible to confirm in which area the remainder had previously been licensed.

The majority (96%) of those responding were in favour of an increase to Tariff 1 and only 3 of the responses were against this proposal. The responses in relation to Tariff 2 were less conclusive with only 49% in favour of an increase. Similarly, only 45% of the responses were in favour of an increase to the current Tariff 3. The reasons given for the need to increase tariffs were mainly due to the increased cost of fuel but increased maintenance costs and the rises in the cost of living generally were also mentioned.

Work was currently being carried out with the meter companies to establish the best means of increasing Tariff 1 in a manner which was fair to both drivers and passengers. The Principal Licensing Officer reported that they had met with the trade and also the meter companies (who had a good knowledge of benchmarking nationally). Reference was made to the CPI annual rate of inflation at 9% but also to

rising fuel costs over the last 12 months which have gone up 40%. There was a proposal to increase the Tariff 1 flag rate (charge for minimum fare) from £3 to £3.50 and to reduce the distance for the flag from 700 yards to 124 yards. In practical terms for a 2 mile journey, the recognised distance used for comparison purposes, on tariff 1 it is currently £5.94 that would rise to £7.04 (18.5%). In terms of the other 300 plus local authorities, 75 Councils have reviewed their fares this year, with 29 of those Councils proposing higher fares. This proposed increase was in line with what other local Councils were doing; Wokingham £8.20, Basingstoke £7.60 and Slough and Stevenage £7.00.

Once finalised, the proposed new tariffs would be advertised locally, as required by the relevant legislation, and also via the Council's website. A key decision report would be submitted to the Cabinet Member which would include the views of this committee. If approved there would be a statutory 14-day consultation period, and if there were no objections then the decision could be implemented. A decision on this issue was currently scheduled on the forward plan to be made on or after the 13th July 2022. The amended tariffs would be implemented as soon as possible following the decision, depending upon the availability of the meter companies to reprogramme taximeters. If objections were received, then the decision would be returned to the Cabinet Member and Leader for consideration.

During discussion the following points were made:-

- It would be helpful to have some clarity on the size of the business as this could have a significant impact on the local economy. The Principal Licensing Officer reported that the vast majority were private hire vehicles and the Council had no control over the rates that were charged. There were in the region of 300 hackney carriage vehicles which the Council licenced where the Council did have control; these were the taxis that sat on the ranks with a taxi sign on the roof. They were often single operators and owned and operated by the individual who held the licence. The numbers would be included in the key decision report for reference.
- Clarity was sought on when the consultation was undertaken as the fuel prices had increased since May and also what apportionment of the fee related to fuel. Reference was also made to hybrid/electric cars and whether that was accounted for in the figures. The Member also made a comment on what happened to the fee when fuel prices came down. The Principal Licensing Officer commented that he did not have the figures on apportionment when the fees were originally set. However, what was used across the country as a comparison was a 2 mile journey, so for tariff 1 currently the 2 mile journey would cost £5.94 with the proposal it would increase to £7.04. The Head of Service reported that the survey in May (undertaken from 9-15 May 2022) was asking the trade whether the fee should increase rather than by how much. There was wide spread support for an increase in the fee. However, the work on pricing had been undertaken much more recently so reflected current fuel prices. The number of electric vehicles were low and clarity on numbers would be included in the key decision report; electric vehicles were incentivised by being licenced for a

longer period of 15 years. They would consider the right approach for electric vehicles. Another reason that the trade had asked for an increase was due to the cost of living crisis, so not completely fuel related. The tariffs would be reviewed if fuel and other prices reduced significantly. The Member commented that it would be helpful to have the fee broken down to show the percentage between fuel and cost of living and maintenance costs etc. Therefore if the market changed it would be clear how the fee should be adjusted. This was agreed.

- A Member queried how the 18.5% increase had been determined. The Principal Licensing Officer reported that it had been proposed at a meeting they had with the trade but with reference to benchmarking figures from other local authorities reviewing their fees. The Member expressed concern that this increase should be considered carefully as other public sector areas were only receiving 2-3% increases in their pay. The Principal Licensing Officer reported that the fee that the Council set was a maximum charge but what was actually charged by vehicle proprietors across Buckinghamshire was very mixed when the fares were introduced last September. Some proprietors thought that the fees that were set with the new Policy and came into effect in September 2021 had been set too high and had been charging lower fees. There was now a consensus from the trade to increase fares in line with the proposed new tariffs. The taxi trade would also be concerned that they do not price themselves out of the market with their competitors from the private trade. Another Member commented that the price for electric chargers had increased by 40% or more in the last few months. In London new cabs were electric and it was important to encourage electric cars especially as they were expensive to purchase in the first place. It was agreed that it would be useful to find out the average price that Hackney carriages were charging passengers across Buckinghamshire if possible.
- In terms of private hire vehicles, a question was asked whether their prices had increased and Members were informed that they had risen significantly although they did not have this information as their fees were not regulated by the Council.
- The Committee agreed that a report should be brought back to the Licensing Committee to review fees if fuel and other prices dropped significantly. The Cabinet Member would take into account the views of the Committee in terms of the key decision, and that the report referred to a 9% increase.

RESOLVED that the comments made by the Licensing Committee be taken into account, in advance of a Cabinet Member key decision on the proposal to increase Hackney Carriage fares (tariffs) for the Buckinghamshire Council area in light of significant increases in fuel prices and further to requests from the licensed hackney carriage trade.

8 Date of next meeting

26 July 2022 at 6.30pm (changed from 21 July on calendar)

