



# Buckinghamshire Council Licensing Committee

## Minutes

**MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD ON WEDNESDAY 1 FEBRUARY 2023 IN THE OCULUS, BUCKINGHAMSHIRE COUNCIL, GATEHOUSE ROAD, AYLESBURY HP19 8FF, COMMENCING AT 6.30 PM AND CONCLUDING AT 8.22 PM**

### MEMBERS PRESENT

D Barnes, J Baum, T Green, C Jones, N Rana, J Rush, N Southworth, B Stanier Bt, D Town, J Towns, G Wadhwa, H Wallace, D Watson and A Wood

### Agenda Item

**1 APOLOGIES FOR ABSENCE**

Apologies were given from Cllr Paul Griffin.

**2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3 MINUTES OF THE PREVIOUS MEETING**

The Minutes of the Meeting held on 26 July 2022 were agreed as a correct record.

**4 DRAFT CHARITABLE COLLECTIONS POLICY**

The Council, in its capacity as Licensing Authority, was required to consider applications and issue permits and licences for charitable collections which take place in public areas and from house to house. There was not any policy currently in force covering the new Council area for these activities and it was considered necessary and appropriate for such a policy to be prepared, consulted upon and published in order to ensure that applications for this type of authorisation were considered and determined in a fair, consistent and transparent manner.

Applications for both street and house to house collections were regularly received by the Council, although only one of the legacy district council areas (Wycombe) currently had policies in place for this type of licensable activity. It was therefore considered necessary to implement a new policy which sets out the Licensing Authority's approach to considering and determining applications and also in relation to any necessary enforcement action across the whole Council area. The draft policy, attached as appendix 1 of the report, had been drafted for this purpose and it aimed to:

- safeguard the interests of both donors and beneficiaries;
- facilitate collections by bona fide charitable institutions and to ensure that good standards would be met;
- prevent unlicensed collections from taking place; and
- prevent nuisance and harassment to residents, businesses and visitors to the Council

area.

The Licensing Committee were being asked to review the draft Charitable Collections Policy and, subject to any recommended amendments, approve the draft policy for consultation with relevant stakeholders and residents.

If approved by the Committee and subject to any suggested amendments, the draft policy would undergo a six-week consultation process with all relevant stakeholders, including affected charity organisations, town centre managers, Thames Valley Police, Community Safety officers, residents, businesses, Members, parish councils and Community Boards.

Following the consultation process, a further report would be presented to the Licensing Committee providing full details of any comments received and amendments proposed as a result.

Members were invited to ask questions of officers. In response to a question regarding retail parks and superstores, officers advised that the street collections legislation covered those areas, but what it did not cover was private areas where the public did not have access.

Officers clarified that the Council currently received in the region of 150 applications each for House to House collection licences and street collection permits each year.

A Member questioned why there was a need for the policy if complaints in relation to unlicensed collectors were rare and subsequently little enforcement action was generally required. In response, the Committee was advised that there was not currently a policy in force covering the new Council area and therefore, there was a need for a single policy to be introduced to ensure that applications were considered and determined in a fair, consistent and transparent manner. The new draft policy sets out the Licensing Authority's approach to considering and determining applications and also in relation to any necessary enforcement action across the whole Council area. A harmonised policy would not only benefit members of the public, but also the charities themselves by ensuring that the Council processes applications in a consistent way. For example, a clear policy would help prevent multiple collectors in one location on one day, thus benefiting charities and also the public.

In response to a question regarding why the draft policy didn't require all charities to be registered with the Charity Commission, officers explained that whilst ideally all charities would be registered with the Charity Commission the process for doing so was quite onerous and therefore there might be some smaller charities, which due to exceptional circumstances, would not be registered with the Charity Commission. Following a question on whether Community Interest Companies were covered under the draft policy, officers agreed to look into this and report back to the Committee.

In relation to paragraph 2.12 of the draft policy, which stated that evidence of public liability insurance cover of a minimum of £5 million must be provided with the application, officers explained that this amount of cover was chosen based on the experience of other similar activities which the Council regulated such as the Pavement Licensing Scheme. Stakeholders would be given the opportunity to comment on the amount of cover as part of the consultation process.

Reference was made to paragraph 3.26 of the report which stated that collections would generally only be permitted between the hours of 08:00 and 20:00. Officers explained that these hours were chosen as a starting point for the consultation and could be looked at again

depending on the outcome of the consultation.

Officers confirmed that the draft policy included a prohibition on collections where a property displayed a notice preventing cold calling. With regards to paragraph 2.8 of the draft policy which stated that only one house to house collection would be permitted to any one charitable organisation in each calendar quarter, it was clarified that this meant in total and not per ward. This had been included in the draft policy to ensure that all charities would have equal opportunities to apply.

With regard to enforcement, the draft policy sets out the Licensing Authority's approach in relation to any necessary enforcement action across the whole Council area. Council officers who were out in the community, for example the Council's Community Safety officers, would be part of the consultation process and therefore would be aware of the policy and the requirements. In terms of enforcement, the Council was very reliant on people reporting any issues with collectors. The licensing requirements set out in the new policy would be promoted through media channels and the consultation process itself. The new policy would be published on the Council's website, along with details of all issued licences and permits which would enable members of the public to check whether a collector had a licence or a permit.

A comment was made by a Member that the introduction of a new policy provided an opportunity to introduce a far more robust method for checking individual collectors via a registration process. Officers explained that whilst this was a good idea, collections were regulated through legal provisions and therefore there would be limited scope for the Council to implement its own scheme. However, officers agreed to look into it further and would ask the relevant Secretary of State as to whether this was something which could be investigated at a national level.

With regards to the use of animals in collections, it was noted that applications which included the use of animals would be subject to additional scrutiny. In these situations, applications would be referred to officers who specialise in the animal welfare side of licensing to look at the risk assessments. It was likely that an officer would also carry out a spot check on the activity to ensure the welfare of the animal was being met.

Following a suggestion by a Member, it was agreed that the wording in the draft policy should be updated prior to consultation to include reference to the use of card payments.

On a vote being taken the recommendation was proposed by Cllr Barnes and seconded by Cllr Town and:-

**RESOLVED that the draft Charitable Collections Policy attached at Appendix 1 of the report, subject to amendments as set out in the minute above, be approved for consultation with relevant stakeholders and residents.**

## **5 HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING ANNUAL REVIEW**

The Licensing Committee received a report on the Hackney carriage and private hire licensing annual review. Prior to service alignment and the implementation of the Council's new Hackney Carriage and Private Hire Licensing Policy, the Licensing Service committed to providing reports to the Licensing Committee, which related to service delivery and policy impact. In June 2022, the Committee received the first enforcement update report. This was the first annual report, focusing on the period 6 September 2021, the date of policy implementation, through to 30 September 2022.

The report provided an overview of application outcomes, an update on enforcement activity, key changes to service provision and improvements in service delivery, legislative changes and

other matters considered to be of relevance or interest to the Committee such as communication with the trade, updates on safeguard training and English language assessments.

With regard to English language assessments, it was noted that paragraph 2.39 of the report should have stated that during the reporting period, 223 new drivers and 109 existing drivers were registered to take the test. However, they did not all take the test. Out of the 262 tests which were conducted in that same period, 174 tests were passes and 88 were fails which resulted in a pass rate of around 66%. However, as 60 drivers took more than one test, the pass rate was actually closer to 86%.

The report also contained an overview of hackney carriage and private hire related matters on the horizon, which were likely to impact the service and the trade over the coming year. Financial considerations such as income, expenditure and other budgetary matters had been excluded from the report. A separate report had been prepared for consideration by the Licensing Committee and this information would form the basis for licence fee review.

As the first report of this nature, the Licensing Service welcomed feedback from the Committee on its content and suggestions for any appropriate amendments.

Members were invited to ask questions of officers. In response to a question regarding how many active taxi driver licences there were, officers advised that there were just under 2,500 active taxi driver licences. Following a question about DBS checks, it was confirmed that DBS checks had successfully been outsourced to a third party supplier called Taxi Plus and that the documents required for uploading were the same as an in-person DBS application. It was noted that whilst the DBS checks had been outsourced, Licensing Officers were doing identity verification checks on drivers when they come to the Council officers to collect their badge.

In relation to communication with the trade, a Member raised a concern that some of the trade were having an issue with the telephones not being answered in a timely manner and that the advice they were being given was sometimes hard for them to understand. The Member enquired whether a hotline they could contact would be helpful. In response, officers explained that the Licensing Service had been working hard to improve communication with the trade. There was a dedicated taxi licensing administration team embedded within the service which dealt with calls into the service and managed emails. The back office system also allowed messaging backwards and forwards through the application process. The outsourcing of DBS checks had enabled the service to reallocate some more resources to cover the telephones. In January the average wait times were about 3 minutes for a call to get through to the team, which was an improvement as prior to this the average time was 8 minutes. The Service was working to reduce the number of unnecessary calls by encouraging applicants, who had submitted valid information, to not call to check on the status of their application unless they had not heard from the Service within a given timeframe. This way the telephones could be freed up for those that require help with their application.

The Licensing Service had also improved communication with the trade by setting up a new Taxi Working Group, involving trade representatives from the hackney carriage and private hire trade, council officers, and other organisations such as disability user groups and the police. The group met approximately every quarter and discussed a wide range of trade related issues, with a focus on working collaboratively to address those issues. The Service also published a regular electronic newsletter which was distributed via text and email, where possible, to all licence holders. The newsletter contained key points of interest such as pending changes to service delivery, legal changes, trade advice and other items of interest. Furthermore, licence holders

were sent regular automatic reminders in advance of their licence expiry date to help them prepare for their pending renewal application.

A Member stressed the importance of ensuring that passengers with mobility issues could use the front seat of taxis when needed. Officers explained that all drivers and operators were required to attend safeguarding and disability awareness training and that the Service worked closely with the training provider to ensure that any feedback received from passengers could be incorporated into the training. Drivers and operators were kept up to date with any changes in legislation via the newsletter, electronic messages and the website. One of the categories on the Council's website, which passengers could select when making a complaint about a taxi or private hire driver or vehicle, was discrimination.

In response to a question regarding rejected applications and whether there was a charge for these, officers advised that there was not a charge for rejected applications. A Member commented that the Council should be able to charge an administration fee for those applications which were repeatedly rejected. Officers explained that the Service was working to reduce the number of rejected applications, for example, by contacting applicants who were having problems with their application and offering them advice. The Service was also considering running clinics for larger operators which have staff in their operating offices/bases who were struggling to submit valid applications. A question was asked as to whether similar to pre planning advice, applicants could pay an accelerated fee in return for advice and help in completing the application. In response, officers agreed to look into this further and whether it would comply with legal requirements and would report back to the Committee.

With regard to appeals, a question was asked as to why the Magistrates had allowed an appeal against the Council's decision to revoke a driver's licence who had been stopped by police driving at 100mph in a 70mph zone with passengers onboard. In response, the Committee were advised that an appeal before the Magistrates court was a rehearing and therefore the evidence put before the Magistrates court could include new items. In this particular case, the appellant stated that there was a mechanical fault with the speedometer and produced an invoice in relation to repairs for the vehicle which had not been available when the Council's decision was made. The Magistrates hearing the matter afresh accepted the driver's evidence and allowed the appeal.

The Committee welcomed the detailed and informative report.

**RESOLVED that the report be noted.**

## **6 TAXI AND PRIVATE HIRE LICENSING BUDGET REVIEW AND FEES AND CHARGES**

The Committee received a report on the taxi and private hire licensing budget review and fees and charges and were asked to consider whether to agree the proposed fees and charges set out at Appendix A of the report prior to consultation and statutory advertising.

In July 2021, taxi and private hire fees and charges were approved as part of the implementation of a new Taxi and Private Hire Licensing Policy for Buckinghamshire, which came into effect in September 2021. The Licensing Service also went through the Better Buckinghamshire programme in 2021 and new structures for a harmonised Licensing Service, organised by specialism rather than geographical location, came into effect from the 1st September 2021. This created a single taxi and private hire licensing service serving the whole of Buckinghamshire and operating under the new Policy. Since September 2021, the Taxi Licensing Service had delivered policy changes as well as improvements in systems and processes, which had required significant resource to deliver. This included the implementation of the Department for

Transport's (DfT) Statutory Taxi and Private Hire Vehicle Standards, which were introduced in July 2020 and aimed to protect children and vulnerable adults from exploitation. The Service had also moved to a single back-office system and redesigned the way that the Service was provided. Having undertaken significant implementation and improvement work, the Service was now stable and operating in a business-as-usual fashion.

Taxi and private hire licensing fees could only be set at levels to recover such costs as were prescribed in law. The Council could not make a profit from licence fees and any shortfall in revenue, if not met by licence fee payers, must be borne by the Council as a whole. In practice, this meant that the costs of the service should be covered entirely by taxi licensing fee income into the Council. Any surplus or deficit must be carried forward and form part of any subsequent review of fees. In July 2021, taxi licensing fees were set based on both a combination of the available legacy district council information on volumes of activity into the services pre the Covid-19 pandemic and assumptions on how the future harmonised Taxi Licensing Service and Policy would operate. A rolling full-service review of fees was generally carried out every 3 years. However, there were a number of uncertainties and assumptions around service provision at the time that the fees were set. Given this, assurances were provided to the Licensing Committee that a full annual review of taxi licensing budgets and fees and charge would be carried out a year into implementation of the new Policy. This would enable the Service to fully understand any surplus or deficit at that point and ensure that any adjustments required could be considered.

As requested by the Licensing Committee a full budget review for taxi and private hire licensing was carried out between September and December 2022, one year on from the introduction of the new Policy and the single service structure and back-office system. The report presented the key findings of that review and the actions that had been taken as a result. The 2022/23 end of year budget position showed a forecast overspend position of £100k. Vacancies within the Service have been proactively managed over several months relative to the ongoing budget forecast position and as a result there was a 13.5% forecast underspend on employee costs over the 2022/23 period of £131k. However, application income into the services was 19.8% lower than was anticipated and therefore, the underspend on employee costs did not fully mitigate this budget impact. Additionally, running costs had increased by 28.2% over this period, in part reflecting increased supplier costs. There were two key factors that were likely to have impacted the level of income into the Service since September 2021. The Department for Transport (DfT) Taxi and private hire vehicle statistics: England 2022 showed that nationally the number of licensed drivers had fallen by 9.4% and continued to fall, likely as a result of the 2020 Covid-19 pandemic and drivers ceasing to drive and moving to other forms of employment. The other key factor that was likely to have impacted the level of income received was that, prior to the formation of Buckinghamshire Council on the 1st April 2020, drivers and operators who wanted to work across more than one of the legacy district council areas would have needed to have held a licence with each of the legacy councils to legally do so. As a consequence of resolutions passed by the Council in April 2021, which created a single administrative area for taxi and private hire licensing purposes, since 6th September 2021 only one licence was required for the respective activities of operator, vehicle and driver. Driver licences were issued for a 3-year period and operator licences for a 5-year period and therefore, where multiple licences were held, the licence holder was able to let older licences lapse and work under the newest licence issued, up to its expiry date.

The Council could not make a profit from licence fees and any surplus or deficit must be carried forward and recovered from the licensed trade over a rolling 3-year period. This meant that the forecast £100k overspend at year end for 2022/23 should be recovered across the next 3-year period and the budget and fees and charges review have incorporated this requirement. In

order to ensure and sustain a cost neutral budget position, where cost recovery adequately funds the service, a combination of measures was required. This included reducing overheads within the taxi and private hire licensing service as far as was possible to reflect current demand levels and increasing fees and charges to the licensed trade. The Taxi Licensing Service was currently undertaking formal consultation with staff within the Service on proposed structure changes which, if implemented as proposed, would reduce salary overheads by £146K. The new structure would be implemented on the 1st May 2023, dependent on the outcome of the consultation (this was an indicative timeline and might change as a result of consultation).

The new fees, which were being proposed, reflected both the full staffing costs of running the service, as well as the support service costs, with likely pay award and inflationary uplifts. As required, this review had factored in recoverable costs incurred by the Council such as IT provision, administration, supplies and services etc. A fee schedule of the proposed fees and charges was provided at Appendix A of the report. A benchmarking exercise had been carried out of current fee levels charged by 12 neighbouring local authority areas and this was attached at Appendix B of the report. A comparison of the proposed fees against the current average fee charged across the neighbouring local authorities was attached at Appendix C of the report. Fees charged by Transport for London (TfL) were excluded from the calculation of average fees charged because they were not comparable in terms of scale and operation, although TfL fees had been provided for information purposes.

Whilst the Service was mindful of the impacts of an increase in fee to licensed drivers, the legislative framework on cost recovery and the increased activity associated with the implementation of the new Policy and Statutory Standards meant that fees must be increased to cover the costs of the service or be borne by the taxpayer. The legislation did not require the Council to make a precise calculation so as to arrive at an income which exactly meets the cost of the administration of the various licences. However, councils were required to take a reasonable and proportionate approach and should aim to set a fee level that would be sufficient to cover the cost but not make a surplus or deficit.

Given the uncertainties around the wider economy and the trends on driver and vehicle numbers reported within the taxi and private hire statistics for England data, it was proposed that the taxi and private hire licensing budget and fees and charges position be reported to the Licensing Committee in Q4 of 2023/24, providing the opportunity to ensure that the position would be as anticipated. In addition to this, the fees and charges would be reviewed annually in relation to any increase in RPI and where appropriate an increase would be applied to the fee to recover related increased costs to the Council. The Government were currently reviewing RPI and might replace it with another inflationary measure. If this was the case an annual increase in relation to any new measure prescribed, where appropriate, would be applied as a minimum to the fee to recover related increased costs to the Council.

If approved, the proposed fees would be subject to a full consultation process with the licensed trade and other relevant parties. Section 70 of the Act set out statutory advertising requirements in relation to vehicle and operator licences, which require that an advert must be published within a local newspaper and at least 28 days provided for comments to be made. It was proposed that this consultation period would begin during February 2023. The licensed taxi and private hire trade would be made aware of the consultation and how to feed in via email as well as through the quarterly Taxi and Private Hire Newsletter. Following the statutory consultation process, a further report would be presented to this Committee at the next meeting on 11th April 2023, setting out the results of the consultation and any amendments made to the proposed fees as a result. If approved, the final proposed fees would take effect across the whole Council area on or before 12th May 2023. Fees would be reviewed annually

and further reports would be provided to the Licensing Committee following review.

Members were invited to ask questions of officers. In response to a question regarding the potential to reduce salary overheads by £146K, the Committee was advised that the fees which were being proposed had taken into account this potential saving. A Member enquired as to why the fee for the licence of an executive vehicle was slightly less than that of a private hire vehicle when the work involved was similar. In response, officers advised that the fee for an executive vehicle was less because, unlike private hire vehicles, executive vehicles did not have door signs so there was not a need to recover the cost of this from the applicant.

Following a query regarding why the 2022/23 budget had not accurately taken account of the likely reduction in income due to the impact of multiple licence holders, officers advised that prior to the harmonisation of the taxi licensing service in September 2021, data was held in 3 different and separate legacy back-office systems. As a result, it had not been possible to match datasets in a meaningful way to assess the likely impact of multiple licence holders. Furthermore, the budget for 2022/23 was set in advance of the harmonisation of the Service when the Service was still operating under the legacy district councils' policies and legacy district councils' fees and charges.

It was confirmed that fees would be reviewed annually to ensure that fees and charges were set at an appropriate level and that any adjustments required could be considered if necessary.

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

**RESOLVED that the proposed fees and charges set out at Appendix A of the report be agreed prior to consultation and statutory advertising.**

**7 DATE OF NEXT MEETING**

Tuesday 11 April 2023 at 6.30pm