

LICENSING AND SAFETY COMMITTEE

Wednesday, 5th September, 2012 at 6.00 p.m.

In a Conference Room at the Council House, Walsall

Present

Councillor Sears (Chairman)
Councillor Clarke (Vice-Chairman)
Councillor Cook
Councillor Douglas-Maul
Councillor S. Fitzpatrick
Councillor James
Councillor Murray
Councillor Rochelle
Councillor Sarohi
Councillor Smith
Councillor Underhill
Councillor Whyte

1450/12 **Apologies**

Apologies for non-attendance was submitted on behalf of Councillors Anson, Burley, Harrison and Hussain.

1451/12 **Substitutions**

Councillor James substituted for Councillor Anson and Councillor Underhill substituted for Councillor Burley for the duration of the meeting only.

1452/12 **Minutes**

Resolved

That the minutes of the meeting held on 18th July, 2012, a copy having been circulated to each Member of the Committee, be approved and signed by the Chairman as a correct record.

1453/12 **Declarations of Interest**

There were no declarations of interest.

1454/12 **Local Government (Access to Information) Act, 1985 (as amended)**

Resolved

There were no items to be considered in private session.

1455/12 **Supplementary Agenda**

Local Government (Miscellaneous Provisions) Act 1976-Private Hire Driver Licensing-Initial English Skills Assessments for New Applicants

The draft resolution of Taxi/Private Hire Liaison Group from its meeting held on 15th August, 2012 was submitted:-

Resolved

- (1) That the report be noted;
- (2) That the Licensing and Safety Committee be recommended to approve the new English Skills Assessment and to its introduction as soon as all necessary administrative arrangements have been agreed between the Licensing Unit and Walsall Adult Community College.

The report of the Interim Regulatory Manager was submitted:-

(see annexed)

The Principal Licensing Officer (Mr Knapper) enlarged upon the report and drew the committee's attention to the salient points.

Councillor Smith asked if the Hackney Carriage and Private Hire Associations were happy with the proposals. Mr Knapper confirmed that the matter had been discussed at the Liaison Group and agreed.

Councillor Cook asked if drivers who had not gained the English Skills Assessment could have their application to drive refused. Mr Knapper confirmed that a driver could be refused a licence for failing the English Skills Assessment.

Councillor Clarke asked if the Taxi Licensing Sub-Committees A and B could refer existing drivers to the college if it was felt that their spoken English was poor. Mr Knapper felt that this could be done. He added that they could also be referred to Walsall Adult Community College if a customer complained that a driver's understanding of English was unacceptable.

Councillor Rochelle asked whether requiring an existing driver to undertake an English Skills Assessment would breach his human rights. Mr Knapper replied that there was case law to show that requiring a driver to undertake certain actions was not a breach of human rights and anyway the driver had a right of appeal to the local magistrates court if he felt aggrieved by any committee decisions.

Councillor Douglas-Maul felt that drivers should have a good knowledge of English to provide a service to their passengers. If new applicants were tested on their abilities to speak and understand English then he felt that existing drivers should also be able to be referred to the college if their understanding or speaking of English was not considered to be good enough.

Councillor Clarke asked the legal representative to confirm that existing drivers would not have their human rights infringed if they were required to undertake an English Skills Assessment. Paul Green (Legal Services) confirmed that there was case law to confirm this.

Councillor Underhill referred to paragraph 3.16 of the report and concurred with other Councillors that existing drivers with poor spoken English should be referred to the college for assistance in improving their English. Mr Knapper stated that there was nothing to stop any driver contacting the college themselves if they felt that their English was of a lower standard. He added that if the committee wanted to extend the English Skills Assessment to all drivers then the matter should be referred back to the liaison group for consideration.

Councillor Smith stated that he could not support existing drivers being coerced into taking an English Skills Assessments.

Mr Ali, speaking on behalf of the Hackney Carriage and Private Hire Associations, was invited to address the meeting and indicated that drivers were concerned at the apparent jump in standards between the old test and that proposed by the college which would require the use of computers. He stated that whilst the trade wanted to improve spoken English it would be unfair if existing drivers were unable to work because their spoken English was of a lower standard.

Mr Ali referred to the Law Commission's fundamental review of the Hackney Carriage and Private Hire legislation operating in England and Wales which was due to be completed in November, 2013 and suggested that the new English Skills Assessment procedures should be delayed until after that date.

Councillor James referred to the fact that the college was closed for several weeks in the year. He asked if arrangements would be made to ensure that tests would be continued during these times so that drivers would not be delayed in entering work.

After further discussion it was

Resolved

- (1) That the Committee endorses the new arrangements for carrying out English Skills Assessments at Walsall Adult Community College for all new applicants applying to be private hire drivers within the borough of Walsall;
- (2) That the scheme is to come into force when all necessary administrative arrangements have been agreed between the Licensing Unit and the Walsall Adult Community College.

1456/12 **Recommendation from taxi/private hire liaison group held on 4th July, 2012**

Euro Cabs

Resolved to recommend to Licensing and Safety Committee:-

- (1) That consideration be given for Euro Cabs to be any colour including black;
- (2) That Euro Cabs be removed from the fleet at 15 years of age rather than the present 12 years

The report of the Interim Regulatory Manager was submitted:-

(see annexed)

The Principal Licensing Officer (Mr Knapper) requested that this matter be referred back to the Taxi/Private Hire Liaison Group for clarification as to whether the proposal related to Hackney Carriage or Private Hire Vehicles.

Resolved

That this matter be referred back to the Taxi/Private Hire Liaison Group for further clarification.

1457/12 **Differing licensing age limits for Hackney Carriage Vehicles**

The report of the Interim Regulatory Manager was submitted:-

(see annexed)

The Principal Licensing Officer (Mr Knapper) enlarged upon the report for the benefit of the committee and drew attention to the salient points contained therein

Councillor Smith indicated that he wanted people to be carried around safely within the Borough of Walsall. He felt that well maintained older vehicles might well be safer than newer vehicles which had not been so well looked after. He questioned whether vehicles over 12 years of age should be tested 3 times a year rather than twice to ensure they were safe.

Councillor Cook referred to the spot checks carried out on Hackney Carriage Vehicles and asked how old the vehicles tested were. Mr Knapper replied that spot checks were carried out across all vehicles in the fleet.

Mr Khalid (Walsall Hackney Carriage Association) reminded the meeting that the MOT failure rate for Hackney Carriages had fallen from over 60% to 33% so vehicles were better maintained even if the fleet as a whole was getting older.

Councillor Underhill referred to paragraph 6.1 of the report which referred to the improved safety features built into modern cars. She was concerned that an aging fleet might not be as safe as one made up of more modern vehicles.

Councillor Rochelle felt that to maintain safety standards non-London style taxis should continue to be scrapped after 12 years.

Councillor Clarke referred to paragraph 2.2 of the report and suggested that consideration of this matter should be deferred until after the Law Commission had reported on the review of Hackney Carriage and Private Hire Legislation by November 2013.

Councillor Sarohi stated that he was in favour of the non-London style taxis being scrapped after 15 years.

Mr Khalid advised the meeting that a new vehicle would cost between £25,000 and £35,000. An 08 plated vehicle currently cost £15,000. The London style cabs were allowed to go to 18 years before removal from the fleet but currently non-London style taxis were removed at 12 years.

He felt that the non-London type vehicles should be allowed to continue to 15 years of age as they were subject to MOT twice yearly.

Councillor Murray referred to the appendix to the report and asked for confirmation that Sandwell and Dudley had no age restrictions on Hackney Carriage Vehicles. Mr Knapper confirmed that this was correct.

Councillor Murray felt that no precedent would be set if Walsall was to allow non-London style taxis to be licensed up to 15 years.

Mr Khalid stated that this measure would help the trade to get over the present recession. If drivers had to purchase newer cabs then several could go out of business.

After further discussion it was moved by Councillor Clarke and duly seconded:-

That no action be taken to amend the upper age limit for non-London style Hackney Carriage Vehicles until after the Law Commission Review of Hackney Carriage and Private Hire Legislation by November 2013.

An amendment was moved by Councillor Smith and duly seconded :-

That, whilst awaiting the outcome of a review by the Law Commission who are currently undertaking a fundamental review of the Hackney Carriage and Private Hire Legislation that operates in England and Wales which may include legislative changes in respect of licensing of vehicles, drivers and operators by Licensing Authorities, this committee agrees to amend the upper age limit for non-London style Hackney Carriage Vehicles to 15 years (currently 12 years) provided that such vehicles remain road worthy and are subject to regular MOT testing.

Upon being put to a vote the amendment was declared carried with 7 members voting in favour and 3 members voting against. The amendment was then put as the substantive motion and it was

Resolved

(Councillors Clarke and Douglas-Maul voting against)

That, whilst awaiting the outcome of a review by the Law Commission who are currently undertaking a fundamental review of the Hackney Carriage and Private Hire legislation that operates in England and Wales, which may include legislative changes in respect of licensing of vehicles, drivers and operators by Local Authorities, this committee agrees to amend the upper age limit for non-London style Hackney Carriage Vehicles to 15 years (currently 12 years) provided that such vehicles remain roadworthy and are subject to regular MOT testing.

Termination of Meeting

The meeting terminated at 7.20 p m.

Chairman

Date