

PLEASE NOTE VENUE

LICENSING COMMITTEE AGENDA



Thursday, 7 August 2008

at 10.00 am

in Committee Room B

MEMBERS: LICENSING COMMITTEE:

Councillors Aiken, Atkinson, Brash, R W Cook, Fleet, Fleming, Griffin, Hall, Jackson, G Lilley, London, McKenna, Morris, Rogan and Tumilty

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 2 July 2008
4. **ITEMS REQUIRING DECISION**
 - 4.1 Hackney Carriage Tariffs - *Head of Procurement, Property and Public Protection*
5. **ITEMS FOR INFORMATION**
6. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

2nd July 2008

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor Victor Tumilty (In the Chair)

Councillors: Reuben Atkinson, Rob Cook, Mary Fleet, Sheila Griffin,
Peter Jackson, Geoff Lilley, Frances London and
Chris McKenna

Officers: Sylvia Pinkney, Consumer Services Manager
Tony Macnab, Solicitor
David Cosgrove, Principal Democratic Services Officer
Jo Wilson, Democratic Services Officer

1. Apologies for Absence

Apologies were received from Councillors Jonathan Brash, Tim Fleming, Gerard Hall and George Morris

2. Declarations of interest by members

None.

3. Minutes of the meeting held on 16th May 2008

Agreed. In response to Member queries the Consumer Services Manager advised that initial discussions had been held with representatives of local taxi drivers with further talks expected in the near future.

4. Licensing Committee Sub-Committee Memberships *(Assistant Chief Executive)*

Purpose of report

To re-appoint and fill vacancies in the Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees.

Issue(s) for consideration by the Committee

Following the recent elections and changes to the membership of the

Licensing Committee some amendments to the sub-committee memberships were required. There were five Licensing Act Sub-Committees comprising of three members on each and three Hackney Carriage and Private Hire Licensing Sub-Committees comprising of five members on each. Whilst it was accepted that political balance was difficult to maintain on sub-committees of three, there should be at least two political parties represented on each Sub-Committee. Details of the proposed Sub-Committee memberships were tabled at the meeting.

Members queried the current practice of having five licensing act sub-committees of three members each and asked if this could be reversed whereby there would be three sub-committee with a five person membership. Members suggested this could potentially mitigate against meetings being inquorate. However, the Principal Democratic Services Officer advised that statutory guidance was that licensing act sub-committees must consist of three members. To invite five members to a sub-committee could mean members attending for meetings which they were unable to take part in. This would waste members' time and there could be issues relating to members' allowance claims. Current practice was for members to arrange their own substitutes if needed and inform Democratic Services of this substitution. In addition the Democratic Services Team had started the practice of telephoning the three councillors the day before the meeting to ensure they would all be attending and to give time for measures to be taken in the event of a problem. Previously the Chair and Vice-Chair had been available as 'late substitutes' and it was anticipated that this would continue.

The Principal Democratic Services Officer highlighted the low number of licensing act sub-committees which had taken place in the last six months and suggested that members may wish to consider whether five sub-committees were still needed. Members suggested that the memberships be altered to three sub-committees of five members with a fixed chair and the other four members appointed on a rota basis. However for the time being officers requested that the proposed sub-committees be appointed as tabled in order that any required meetings could take place within the statutory timescales should this be necessary. A report would then be prepared for Members outlining the potential options available, including those suggested by Members, and whether these were viable within the restrictions imposed by the Licensing Act 2003 and the published guidance. The proposed sub-committee memberships as tabled at the meeting were therefore agreed subject to an amendment as laid out in the decision below.

Decision

- (a) That the chairs and memberships of the Licensing Act Sub-Committees be confirmed as follows:

Licensing Act Sub Committee 1 – Councillors Hall (Ch.), McKenna and Tumilty

Licensing Act Sub Committee 2 – Councillors R. Cook (Ch.), Atkinson and Rogan

Licensing Act Sub Committee 3 – Councillors Griffin (Ch.), Jackson and London

Licensing Act Sub Committee 4 – Councillors G Lilley (Ch.), Fleet and Fleming.

Licensing Act Sub Committee 5 – Councillors Brash (Ch.), Aiken and Morris

- (b) That the Chairs and memberships of the Hackney Carriage and Private Hire Licensing Sub-Committees be confirmed as follows:

Hackney Carriage and Private Hire Licensing Sub Committee 1 – Councillors Tumilty (Chair) Fleming, Hall, McKenna and Rogan

Hackney Carriage and Private Hire Licensing Sub Committee 2 – Councillors Morris (Chair), Aiken, Brash, Jackson and G Lilley

Hackney Carriage and Private Hire Licensing Sub Committee 3 – Councillors R Cook (Chair), Atkinson, Fleet, Griffin and London.

- (c) That officers prepare a report outlining the potential options available for managing the Licensing Act Sub Committees within the restrictions imposed by the Licensing Act 2003 and the published guidance.

5. Update on Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees Activity *(Assistant Chief Executive)*

Purpose of report

To update Members on work undertaken by the five Licensing Act Sub Committees and the three Hackney Carriage and Private Hire Licensing Sub Committees.

Issue(s) for consideration by the Committee

At the meeting on 15 March 2006, the Licensing Committee had agreed to receive regular reports on the work of the Sub-Committees. Tables, attached as appendices to the report, gave a brief outline of the work undertaken by the Sub-Committees since last reported on 12th December 2007. Members were advised that the Licensing Sub-Committee had considered one application while the Hackney Carriage and Private Hire Licensing Sub-Committees had considered twelve driver applications in the same period.

Decision

That the report and information set out in the two appendices be noted.

6. Review of Policy and Procedure for the Consideration

of Previous Criminal Convictions *(Head of Procurement, Property and Public Protection)*

Purpose of report

To review the current arrangements for the consideration of previous criminal convictions for hackney carriage and private hire drivers.

Issue(s) for consideration by the Committee

On 2nd March 2005 Members approved the adoption of a revised policy to be used for the determination of hackney carriage and private hire drivers licence applications, suspensions and revocations where such drivers had previous criminal convictions. Since then Members had referred to the policy as guidance to assist them with their deliberations however recently some Members had indicated that the current policy required some applicants to be brought before the Committee where due to the nature of the offences or time elapsed since them it was inevitable that the licence would be granted. As a result they had asked that the current policy be re-evaluated. This would also provide an opportunity for a more fundamental review of the current licensing procedures and the consideration given to the relevance of previous convictions.

Under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 Hartlepool Borough Council had a duty to issue drivers licences only to “fit and proper” applicants. Under current licensing procedure all new applicants were required to obtain an Enhanced Criminal Records Bureau (CRB) Disclosure detailing any previous criminal convictions they might have. If any convictions fell within specified parameters the applicant was referred to a hackney carriage and private hire licensing sub-committee for consideration. Members would then make decisions about the relevance of any previous convictions and the applicant's suitability to carry all classes of passenger, without reference to any other Council department. However in some cases other council departments would make an additional determination as to the applicant's suitability, for example applications for school bus driver posts considered by Children's Services Department. This could lead to a situation where the applicant has been approved by one department but rejected by another.

In order to avoid this, initial discussions had taken place with Human Resources, Children's Services and Adult and Community Services with a view to involving them in the licensing process. This would allow them to highlight any concerns they had about an applicant, remove the need for duplication and streamline the process for applicants. However this could lead to an increase in the amount of applicants referred to sub-committee. In order to avoid this it was proposed that a panel of officers representing the interested Council departments be introduced to make initial decisions about the suitability of applicants and grant licences where no concerns were raised. If concerns were raised then the applicant would be referred to the Hackney Carriage and Private Hire Licensing Sub-Committee for final decision.

Representations could be made by the concerned departments at the sub-committee meeting thereby allowing members to make more informed decisions.

Members queried the practice regarding CRB checks on applicants who had only recently entered the country. The Consumer Services Manager advised that officers would write to the embassy of the applicant's country of origin and request a certificate of good conduct. Members indicated that they did not feel this was a stringent enough check and discriminatory against applicants born in the UK who could be subject to checks and enquiries on activities going back many years. However the Solicitor advised that legally a certificate of good conduct was all that was required for foreign drivers. It would be illegal for Members to refuse to accept this as under EU law this certificate carried the same weight as a CRB check. The system relied on other countries having the same high standards on these matters as the UK. The Consumer Services Manager reported that the number of immigrants applying for taxi licences was minimal given the requirements of the role however Members requested that their grave and serious concerns in this matter be recorded.

A Member queried the regular occurrence whereby magistrates would overturn decisions made by Members regarding the issuing or otherwise of a Hackney Carriage/Private Hire licence. The Chair advised that he had been informed that magistrates uphold the letter of the law, which Members felt they did also.

Decision

- (a) That the proposed new procedure for the consideration of previous criminal convictions be endorsed and officers instructed to secure an agreement with Children's Services and Adult & Community Services for the adoption of such a procedure.
- (b) That the Head of Procurement, Property and Public Protection be appointed as responsible officer to represent the Licensing Committee on the joint officer panel established to consider licence applications and grant licences where considered appropriate.
- (c) That the existing policy be retained as the appropriate guidance document when considering the relevance of previous convictions with the removal of Appendix A as set out in the report.

7. **Review of Street Trading Controls** (*Head of Procurement, Property and Public Protection*)

Purpose of report

To review the current arrangements for the control of street trading in Hartlepool.

Issue(s) for consideration by the Committee

In March 2005 parts of the Local Government (Miscellaneous Provisions) Act 1982 were adopted requiring that anyone wishing to trade from any street in Hartlepool must obtain from the Council a Street Trading Licence or Street Trading Consent. This issue arose following a number of complaints about mobile traders causing problems at various locations across Hartlepool. For this reason Members chose not to limit street trading controls to traditional popular locations such as Seaton Carew but extended them across town so any problems could be addressed regardless of their location.

In March 2008 Members asked that a review of current street trading controls be carried out following concerns expressed by an elected Member regarding the level of fees charged to mobile traders. Current fees are approved by the Adult and Public Health Services Portfolio Holder each year. They represent the fees set in 2005 plus a 3% increase in subsequent years. Applications fall into fixed site and mobile categories with fees the same for both types. For fixed site traders Council departments and Cleveland Police are consulted and steps are taken to ensure traders cannot sell goods of similar nature to existing traders in the area. There are no consultations for mobile traders.

Hartlepool is unusual in that most of the town has been designated a controlled area and there is a single fee structure for all traders. However this has also led to relatively low fees for consent in Hartlepool compared to other local licensing authorities and very few prospective applicants have chosen not to continue with applications because of Hartlepool's fee structure.

A request was also made that the time at which day-time/night-time rates were applied be reconsidered. Originally night rates, double those of day rate, applied 6pm-5am. However in February 2008 the Portfolio Holder had approved an amendment to 9pm-5am.

Officers suggested a number of options in relation to the current system. Members could choose to lower the fees for mobile traders, such as ice cream vans, but any reduction would need to be financed some other way. One possibility could be to remove the current system of refunding traders who surrender their consents or licences early, with the reduction remaining only in exceptional circumstances beyond the trader's control. Any recommendations Members made would be taken to the next Adult and Public Health Services Portfolio meeting for approval.

Members asked how illegal trading was brought to the attention of enforcement officers. The Consumer Services Manager advised that Enforcement Officers would carry out regular checks to ensure licensed traders were in their designated area. Additionally reports of unlicensed traders would be received from officers and rival traders. In response to further queries the Consumer Services Manager advised that food hygiene and health and safety checks were carried out prior to a licence being issued and subsequent good conduct in these areas was included in the procedure.

With regard to the suggested amendments to the current arrangements Members indicated they were mindful to reduce the fees for ice cream vans as

these were an important part of growing up. However they would prefer to see a larger reduction than the £900 proposed. They also felt it was unfair to completely stop the practice of refunding monies paid for the early surrender of street trading consents. This might be acceptable when the licence had only three months to run but not in cases where there were eight or nine months left. A trader should not be penalised for having a failing business and an administration charge could be levied to cover costs. Also the Council would be able to rent the vacated plot to another trader. The Consumer Services Manager indicated that in many cases a previous applicant could have been turned down to allow access to the trader now surrendering their licence and it may not now be possible to find a replacement. An administration charge was already levied.

Decision

- (a) That the current arrangements for issuing street trading consents and licences be noted.
- (b) That a reduction in street trading consent and licence fees for mobile traders be approved at less than £900.
- (c) That officers confer with Trading Standards on proposed lower consent and licence fees for mobile traders before returning to a future Licensing Committee meeting
- (d) That the withdrawal of future refunds for the early surrender of street trading consents and licences be refused.

The meeting closed at 11.15 am.

CHAIRMAN

Report of: Head of Procurement, Property and Public Protection

Subject: HACKNEY CARRIAGE TARIFFS

1. PURPOSE OF REPORT

- 1.1 To consider an increase in Hackney Carriage tariffs.

2. BACKGROUND

- 2.1 At your meeting held on 11th December 2002, it was agreed that there would be an annual review of Hackney Carriage tariffs taking into account any proposals made at the Vehicle Owners Annual General Meeting.
- 2.2 Following a consultation exercise in December 2007, no tariff proposals were submitted by the Hackney Carriage trade and at their AGM on 22nd January 2008 it was formally agreed that there would be no request for a general tariff increase in 2008. The current tariffs are attached as Appendix I.
- 2.3 On 29th April 2008 a letter, signed by 12 Hackney Carriage owners was presented to the Council requesting an increase of 30p on the 'flag fall' (the initial cost of hiring the vehicle plus the first few hundred yards) 'due to the rapid rise in fuel costs'.
- 2.4 At your meeting of 16th May 2008 this issue was considered and representations were heard from a number of Hackney Carriage owners who were both for and against the proposed increase. Members acknowledged that fuel prices had risen sharply over recent months but considered that a rise on the 'flag fall' was not the most appropriate method for increasing revenue to cover costs. It was also accepted that an immediate increase, during what is, traditionally, a quieter time for the taxi trade, would be counterproductive.
- 2.5 Members asked that the matter be reconsidered with a view to producing a fare rise that was linked to the distance travelled and that was more universally acceptable to the taxi trade. Members asked that the matter be investigated quickly in order to allow for an increase to be available from September.
- 2.6 During June and July meetings were held with representatives of the Taxi Owners Working Group and a proposal was agreed that has subsequently been sent to all Hackney Carriage owners for consideration.
- 2.7 At the time of writing this report 38 vehicle owners had expressed support for the proposed rise and 3 had opposed it.

- 2.8 A copy of the proposal is attached as Appendix II and the financial impact on passengers for 1, 2 and 3 mile journeys is attached as Appendix III.
- 2.9 The proposal generates a potential fare increase of 10p for journeys of one mile, 30p for journeys of two miles and between 40p and 50p for journeys of three miles.

3. ISSUES

- 3.1 The cost of diesel has risen from 95.3p per litre in May 2007 to 131.7p per litre in July 2008 representing an increase of 38%. Unleaded petrol has risen by 25% from 94.8p per litre to 118.4p per litre during the same period (*Source: The AA*).
- 3.2 Should Members approve a tariff increase a Public Notice will be placed in the Hartlepool Mail to inform the general public. Should any objections be received within 14 days of the Notice being published, the matter will be referred back to Licensing Committee before any increase is implemented. Assuming there are no public objections, any increase approved by Members will not therefore take effect for approximately 3 weeks.
- 3.3 Members should consider that Hackney Carriage drivers are prevented by law from charging more than the maximum approved tariff. Any increase in their operating costs must therefore be absorbed by them until any tariff increase is approved by the Council.
- 3.4 According to the taxi trade magazine *Private Hire Monthly* Hartlepool's Hackney Carriage tariffs (for a two mile journey) are the fourth cheapest in the country.
- 3.5 Any increase in tariffs must reflect a balance between allowing licensed drivers to generate a reasonable income whilst representing value for money for the travelling public.

4. RECOMMENDATIONS

- 4.1 That Members consider the proposed increase to the current tariffs.

CURRENT TARIFFS 2007/8

Appendix I

HACKNEY CARRIAGE FARES

Local Government (Miscellaneous Provisions) Act 1976 Section 65

FARES FOR DISTANCE

MILEAGE

- (1) For hirings begun between 9 am and 5 pm on any day other than Sundays and those shown at (2), (3) and [4]: -
- | | |
|---|------|
| If the distance does not exceed 440 yards or 402.3 metres | 200p |
| If the distance exceeds 440 yards or 402.3 metres:- | |
| For the first 440 yards or 402.3 metres | 200p |
| For each subsequent 250 yards or 228.6 metres or uncompleted part thereof | 10p |
- (2) For all hirings begun between 6.30 am and 11.30 pm on Sundays, between 6.30 am and 9 am and 5 pm and 11.30 pm on any day other than those shown at (3) or [4]: -
- | | |
|---|------|
| If the distance does not exceed 380 yards or 347.5 metres | 200p |
| If the distance exceeds 380 yards or 347.5 metres:- | |
| For the first 380 yards or 347.5 metres | 200p |
| For each subsequent 160 yards or 146.3 metres or uncompleted part thereof | 10p |
- [3] For all hirings begun between 11.30 pm and 6.30 am and all hirings on any Bank Holiday or Public Holiday and all hirings on 24 and 31 December other than those shown at (4): -
- | | |
|---|------|
| If the distance does not exceed 300 yards or 274.3 metres | 200p |
| If the distance exceeds 300 yards or 274.3 metres:- | |
| For the first 300 yards or 274.3 metres | 200p |
| For each subsequent 130 yards or 118.9 metres or uncompleted part thereof | 10p |
- [4] For all hirings begun between 7pm on 24th December and 0630 am on 27th December and between 7 pm on 31st December and 0630 am on 2nd January: -
- | | |
|---|------|
| If the distance does not exceed 300 yards or 274.3 metres | 400p |
| If the distance exceeds 300 yards or 274.3 metres:- | |
| For the first 300 yards or 274.3 metres | 400p |
| For each subsequent 130 yards or 118.9 metres or uncompleted part thereof | 10p |

WAITING TIME

- (a) For all hirings shown at (1) and (2) under MILEAGE.
For each period of one minute or uncompleted part thereof 10p
- (b) For all hirings shown at (3) and [4] under MILEAGE
For each period of up to 40 seconds or uncompleted part thereof 10p

FARES FOR TIME - Provided that when a Hackney Carriage is hired by time, such fares shall be agreed with the hirer at the commencement of the hire.

SOILING CHARGE - £20.00

PROPOSED TARIFFS 2008/9 Appendix II**HACKNEY CARRIAGE FARES**
Local Government (Miscellaneous Provisions) Act 1976 Section 65**FARES FOR DISTANCE****MILEAGE**

- (1) For hirings begun between 9 am and 5 pm on any day other than Sundays and those shown at (2), (3) and [4]: -
- | | |
|---|------|
| If the distance does not exceed 210 yards or 192 metres | 200p |
| If the distance exceeds 210 yards or 192 metres:- | |
| For the first 210 yards or 192 metres | 200p |
| For each subsequent 210 yards or 192 metres or uncompleted part thereof | 10p |
- (2) For all hirings begun between 6.30 am and 11.30 pm on Sundays, between 6.30 am and 9 am and 5 pm and 11.30 pm on any day other than those shown at (3) or [4]: -
- | | |
|---|------|
| If the distance does not exceed 380 yards or 347.5 metres | 200p |
| If the distance exceeds 380 yards or 347.5 metres:- | |
| For the first 380 yards or 347.5 metres | 200p |
| For each subsequent 140 yards or 128 metres or uncompleted part thereof | 10p |
- [3] For all hirings begun between 11.30 pm and 6.30 am and all hirings on any Bank Holiday or Public Holiday and all hirings on 24 and 31 December other than those shown at (4): -
- | | |
|---|------|
| If the distance does not exceed 200 yards or 182.9 metres | 200p |
| If the distance exceeds 200 yards or 182.9 metres:- | |
| For the first 200 yards or 182.9 metres | 200p |
| For each subsequent 120 yards or 109.7 metres or uncompleted part thereof | 10p |
- [4] For all hirings begun between 7pm on 24th December and 0630 am on 27th December and between 7 pm on 31st December and 0630 am on 2nd January: -
- | | |
|---|------|
| If the distance does not exceed 200 yards or 182.9 metres | 400p |
| If the distance exceeds 200 yards or 182.9 metres:- | |
| For the first 200 yards or 182.9 metres | 400p |
| For each subsequent 120 yards or 109.7 metres or uncompleted part thereof | 10p |

WAITING TIME

- (a) For all hirings shown at (1) and (2) under MILEAGE
For each period of one minute or uncompleted part thereof 10p
- (b) For all hirings shown at (3) and [4] under MILEAGE
For each period of up to 40 seconds or uncompleted part thereof 10p

FARES FOR TIME - Provided that when a Hackney Carriage is hired by time, such fares shall be agreed with the hirer at the commencement of the hire.

SOILING CHARGE - £20.00

COST OF A TYPICAL JOURNEY**Tariff One**

	Now (£)	Amendment	Proposed New Charge
Flag Fall	2.00 for first 440 yds	£2.00 for first 210 yds	
Cost/Distance	0.10 per 250 yds	0.10 per 210 yds	
1 mile	2.60		2.70
2 miles	3.30		3.60
3 miles	4.00		4.50

Tariff Two

	Now (£)	Amendment	Proposed New Charge
Flag Fall	2.00 for first 380 yds	2.00 for first 380 yds	
Cost/Distance	0.10 per 160 yds	0.10 per 140 yds	
1 mile	2.90		3.00
2 miles	4.00		4.30
3 miles	5.10		5.50

Tariff Three

	Now (£)	Amendment	Proposed New Charge
Flag Fall	2.00 for first 300 yds	£2.00 for first 200 yds	
Cost/Distance	0.10 per 130 yds	0.10 per 120 yds	
1 mile	3.20		3.30
2 miles	4.50		4.80
3 miles	5.90		6.30

Tariff Four – As Tariff 3 plus £2 for Christmas and New Year