

ITEM 3(a)

Minutes of the meeting of the REGULATORY COMMITTEE held on WEDNESDAY 23 SEPTEMBER 2015 at 7:15pm

Present: Councillor Morris (Chair)
Councillors Exon, Geaney, R Gifford, Lewis, McDonald, Wallis and P Williams

Officers: N Allen (Regulatory Compliance Manager), S Teesdale (Licensing Team Leader), A Ward (Senior Practitioner), L Gardner (Case Manager, Litigation) and D Imbimbo (Committee Manager).

Apologies: Councillors Green, Miles, Patey-Smith, Webb and C Williams

Also Present Mr K Weldon Milton Keynes Taxi Association and 7 members of the public

RC16 **MINUTES**

RESOLVED -

That the Minutes of the meeting of the Regulatory Committee held on 8 July 2015, and the meetings of the Regulatory Sub-Committees held on the below dates, be agreed as accurate records and signed by the Chair as such.

- (a) The meeting of the Regulatory Committee held on 30 June 2015
- (b) The meeting of the Regulatory Committee held on 01 July 2015
- (c) The meeting of the Regulatory Sub-Committee on 14 July 2015 (1)
- (d) The meeting of the Regulatory Sub-Committee on 14 July 2015 (2)
- (e) The meeting of the Regulatory Sub-Committee on 22 July 2015
- (f) The meeting of the Regulatory Sub-Committee on 27 July 2015 (1)
- (g) The meeting (of the Regulatory Sub-Committee on 27 July 2015 (2)
- (h) The meeting of the Regulatory Sub-Committee on 27 July 2015 (3)
- (i) The meeting of the Regulatory Sub-Committee on 12 August 2015

RC17 **DISCLOSURES OF INTEREST**

No declarations were made

RC18

REFERRAL FROM CONSTITUTION COMMISSION

The Committee considered a referral from the Constitution Commission in respect of the appointment and selection of members of the Committee to sit on a Regulatory Sub-Committee, as detailed in the Committee papers.

The Chair told the Committee that she had attended the meeting of the Constitution Commission together with Councillors Lewis and C Williams to make comments on the proposals, however, the Constitution Commission had asked that the referral be made to the Committee, due to the timing it had not yet been possible for officers to draft a full report in respect of the matter and she therefore proposed that consideration of the recommendation be deferred until the next meeting of the Committee when a full report may be presented for the Committees consideration.

RESOLVED:

That the Item be deferred until the meeting of the Committee on 2 December 2015

RC19

AMENDMENT TO STATEMENT OF TAXI LICENSING POLICY IN RESPECT OF REAR LOADING OF WHEELCHAIRS

The Committee considered a report in respect of a Deputation received from private hire drivers seeking to have the Councils policy amended in respect of allowing vehicles designed for rear loading of wheelchairs. The Committee was reminded that at its meeting in July 2015 the Committee asked that further consultation be conducted with wheelchair user groups, this had now been undertaken and as a result the changes to policy as detailed in the Committee report were recommended.

The Chair proposed that the Officer recommendation be agreed.

The Committees agreement was given by acclamation.

The Committee heard from the representative of the Hackney Carriages Association who asked that this policy be likewise applied to Hackney Carriages.

The Senior Practitioner advised the Committee that the Deputation had been submitted on behalf of Private Hire Drivers and that the cap on the number of Hackney Carriages negated any likelihood of this applying to new Hackney Carriages, there were also a number of other considerations in respect of Hackney vehicles which would need to be considered if and when there was any potential to introduce new vehicles. The Committee was reminded that the Policy had been out for consultation for a year and no previous representations had been received from Hackney Carriage Drivers.

RESOLVED –

1. That the report be noted.
2. That paragraph 1.20.4 of Appendix A of the Policy be recommended to Cabinet to be amended so as to permit

private hire vehicles that are also WAV's to be able to load wheelchairs from the rear as well as the side.

3. That section 5.3 of the Council's Statement of Hackney Carriage and Private Hire (Taxi) Licensing Policy be recommended to Cabinet to be amended as detailed in Annex B to the Committee report.

RC20

CCTV IN HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Committee considered a report in respect the use of CCTV in Hackney Carriage and Private Hire Vehicles, this was asked for by the Committee as the Taxi Forum had received a presentation demonstrating the benefits of having CCTV installed in vehicles.

The report sets out the minimum standards that would have to be met to ensure that there was strict compliance with any relevant legislation and best practice. It was noted that aside from the element of legal compliance the greatest barrier to installing CCTV was cost.

The Senior Practitioner told the Committee that further research was needed to establish what types of camera and recording systems were available and most cost effective and that consultation with the Taxi trade would be undertaken initially by raising the subject at the next Taxi Forum.

It was recommended that whilst no compulsion should, at this stage, be put on drivers to install a system, the Cabinet be recommended to amend the Taxi Licensing Policy to include minimum specifications and operating procedures as detailed in the report so that should any drivers wish to install a system they would be unlikely to incur any significant further cost if the recommendation became a requirement of the policy.

The Committees agreement was given by acclamation.

RESOLVED –

1. That the report be noted.
2. That a recommendation be made to Cabinet to amend the Council's Policy to include a statement within it that permits the installation of CCTV systems in licensed vehicles for the protection of the driver and members of the public, subject to the system complying with the minimum specification and operating procedure as detailed in the Committee report.
3. That further consultation be undertaken with the License Trade, and research be conducted to establish the technological specifications of CCTV systems available, the financial costs and benefits to the licence trade, (such as lower insurance), and any methods that could be used to encourage the use of CCTV in licensed vehicles or the merits and financial arrangements of the Council purchasing a number of systems on behalf of drivers/proprietors/operators

RC21

LICENSING OF DRIVERS -CRIMINAL RECORD HISTORY

The Committee considered a report in respect of the disclosure of Criminal Records by applicants for Taxi Licenses.

The Senior Practitioner reminded the Committee that at its meeting on 8 July 2015 the Regulatory Committee considered a proposed amendment to the Statement of Taxi Licensing Policy adopted by Milton Keynes Council in respect of the checking of the criminal records of applicants who have lived in countries outside of the UK and are unable to provide a full criminal record history. The Committee had asked Officers to consider the legal position of this and, in so doing, Officers have re-considered the procedure and the reasons why such a procedure was first adopted.

The Committee heard that the Home Office held a list of Countries which could or would not provide an individual's criminal record and in such cases other bodies such as NHS and Police require the applicant to make a statutory declaration.

The Legal opinion that has been provided to Licensing Officers was that it would be unlawful to refuse an application purely because a criminal record had not been provided as a check could not be completed in their own Country through no fault of their own.

In order to be as robust as possible in the vetting process it was recommended that the Committee recommend to Cabinet that the Taxi Licensing Policy be amended at D5 to include a strict procedure to be applied in such cases, as detailed in the Committee report. It was noted that the proposed procedure followed Home Office guidance as closely as possible and would have to be amended in accordance with that guidance as situations in other Countries change.

It was noted that the procedure as written used the word 'may' in respect of certain actions detailed therein, Members of the Committee asked that this be changed to read 'Will'

The Committees agreement was given by acclamation.

RESOLVED:

That Cabinet be recommended to amend the Taxi Licensing Policy to include the procedures detailed in the Committee report to address situations where an adequate Criminal Record cannot be provided.

RC22

LICENSING OF DRIVERS – REQUIREMENTS AND AMENDMENTS TO POLICY

The Committee considered a report in respect of what further requirements that could be put in place to ensure the suitability of the drivers it licences.

The Senior Practitioner told the Committee that one of the options was to introduce a requirement for licensees to have passed the Driving and Vehicle Standards Agency (DVSA) advanced Test and it

was recommended that this be considered for inclusion in the Policy. A number of other minor amendments were also recommended as detailed in the Committee report. This included provision for a simplified method of allowing the Council to undertake DBS checks using the DBS update service.

In respect of the DVSA test it was proposed that from 1 January 2016 all new applicants should be required to undertake the DVSA test and the existing drivers should be required to pass this test within 6 months of being granted a renewed licence. From 1 January 2017 Proprietors of wheelchair accessible vehicles should be required to ensure that their vehicle was driven by a driver who had passed the DVSA enhanced test which included a wheelchair specific assessment.

Another change which was recommended was that drivers would be issued two badges one to wear on a lanyard around their neck and the second to place on the dashboard so that passengers were able to see it. It was noted that the only legal requirement was to wear the badge on a lanyard. This would negate the practice of drivers placing their existing badge on the dashboard as occurs at present.

It was the Officers recommendation that the Committee recommend to Cabinet that the proposed additional requirements be included in the Policy.

Members of the Committee asked that information be supplied to the Committee to give an understanding of what topics were covered in both the 'Knowledge Test' and the 'English Test', The Senior Practitioner told the Committee that the Knowledge Test was being updated and re-written, the final test would be made available to the Committee, it was noted that the English Test was provided by an independent outside body and was only a requirement where an applicant failed to evidence that they had sufficient English skills to carry out their duties as a licensed driver.

The Committee heard from the representative of the Hackney Carriages Association who questioned the need to require an experienced driver who had no adverse endorsements on their DVLA Licence would have to undergo a test, and stated that there had been no consultation by the Hackney Carriage Association about the proposal to introduce a second badge which was not required by law. He also commented that there were numerous changes being made to the policy without adequate communication to drivers and it was his view that the Council had a responsibility to write to each driver to advise them of the various changes.

The Chair reminded persons present that the Policy was available on the Council website, and that it would also be discussed at the Taxi Forum.

The Senior Practitioner told the Committee that it was intended to write to licensees once the amendments had been adopted.

The Chair proposed that the Officer recommendations be agreed.

The Committees agreement was given by acclamation.

RESOLVED –

That Cabinet be recommended to amend the Taxi Licensing Policy to reflect the various recommendations detailed in the Committee report.

RC23

LICENSING OF DRIVERS – CONDITIONS OF LICENCE AND CODE OF CONDUCT

The Committee considered a report in respect of Licensing of Drivers – Conditions of Licence and Code of Conduct

The Senior Practitioner reminded the Committee that at its meeting on 8 July 2015 the Regulatory Committee had requested a report in respect of measures that might allow conditions to be applied to a hackney carriage drivers' licence and the possibility of developing a code of conduct for Hackney Carriage Drivers or such other solution as may be lawful. Officers have therefore considered and reviewed the possibilities and the conditions applicable to licences.

Following investigation into the matter and having established that no conditions could be applied to a Hackney Carriage the recommended solution to ensure that all drivers were subject to a Code of Conduct it was recommended that a process of issuing combined hackney carriage and private hire licences from 1 January 2016 be adopted.

The Committee heard that a Code of Conduct could be introduced by the Council but could only be used as a guide rather than a condition of the license. This could be introduced to act as an interim measure until all licenses were renewed on the dual license basis.

It was recommended that the committee seek to have Cabinet amend the policy to reflect the following changes;

1. That the Council adopt a process of issuing combined hackney carriage and private hire licences from 1 January 2016
2. The Council adopt a hackney carriage code of conduct to be implemented from the 1 January 2016 and to continue until such time that all licensed hackney carriage drivers hold a combined hackney carriage and private hire licence;
3. From 1 January 2016 the Council shall cease to offer individual hackney carriage and private hire driver licences and only issue a combined licence, and,
4. The amended driver licence conditions as detailed in the Committee report be incorporated in the Taxi Licensing Policy.

The Committee heard from the representative of the Hackney Carriages Association who questioned the need to require a Licensed Hackney Carriage Driver to have a Private Hire License that he or she did not want or require. It was commented that there had not been any consultation with the Hackney Carriage Association in respect of this matter.

It was noted that approximately 90% of the drivers licensed by the Council already had a dual license.

The Chair proposed that the Officer recommendations be agreed, the Committees agreement was given by acclamation.

RESOLVED –

That Cabinet be recommended to amend the Taxi Licensing Policy in the following terms;

1. That the Council adopt a process of issuing combined hackney carriage and private hire licences from 1 January 2016
2. The Council to adopt a hackney carriage code of conduct to be implemented from the 1 January 2016 and to continue until such time that all licensed hackney carriage drivers hold a combined hackney carriage and private hire licence;
3. From 1 January 2016 the Council shall cease to offer individual hackney carriage and private hire driver licences and only issue a combined licence, and,
4. The amended driver licence conditions as detailed in the Committee report be incorporated in the Taxi Licensing Policy.

RC24

REGISTERED VILLAGE GREENS

The Committee considered a report in respect of the guidance note on procedures to be adopted to register a Village Green.

The Landscape Contracts Manager reminded the Committee that at its previous meetings amendments had been proposed to the draft guidance, these had now been included and the amended guidance note was recommended for adoption.

It was commented that the guidance did not take account of a potential situation where the land to be registered was owned by the Council and the Council did not object, it seemed that the guidance was written with the expectation that the Council would object to any application. The guidance took no account of the right of a land owner to self-register a village green.

The Chair told the Committee that in such an instance there would be no requirement to adhere to the guidance, it was however a matter that may need to be communicated to the relevant service within the Council should such an instance occur.

The Committee noted that the guidance referred to 'trigger' events, and it was suggested that there could be a small addition to advise applicants where information to identify such events could be found. It should also be clear that where such an event had occurred there was no option for the Council to register a village green as the law prevented it.

The Chair proposed that the guidance be adopted, the Committees agreement was given by acclamation

RESOLVED –

1. That the report be noted, and,
2. That the guidance be adopted.

RC25

TAXI LICENSING FEES AND CHARGES

The Committee considered a report in respect of Taxi Licensing Fees and Charges.

The Licensing Team Leader told the Committee that the funds raised by the Taxi Licensing Charges were ring fenced and the budget should be run at zero cost, fees and charges received should equal the associated costs of running the Taxi Licensing service. The Committee heard that there are some anomalies in the system as charges could be levied to cover enforcement of vehicle standards and operators but not drivers, The Team Leader reported that the Council had increased the strength of the enforcement team by 5 Officers and compliance by one, this means that it was not possible to predict accurately what the cost of enforcement would be for the following two years, therefore the proposed charges are based on best estimates. Therefore it was proposed that next year the fees and charges would be adjusted to take account of any deficit or surplus, thereafter judging budgets should be more accurate and based on actual costs.

The committee heard that there was also a statutory change which introduced a five year license for operators.

The Team Leader told the Committee his intention was to bring the question of fees and charges to Committee on an annual basis and would provide details of any surplus or deficit in funding arrangements, thereby allowing charges to be adjusted appropriately.

The Committee heard that the fees were proposed to be set at a level that would require a consultation process to be undertaken prior to their recommendation to full Council for adoption. It was recommended that the Committee agree to authorise the start of the consultation process based on the levels of charges indicated within the Committee report.

Members noted that Fees and Charges had not been increased for seven years, it was also noted that each authority had different arrangements, Milton Keynes Council compared favourably with others.

The Committee heard from the representative of the Hackney Carriages Association who questioned by there was not a higher charging bracket for operators operating 100+ vehicles of which there were known to be some in Milton Keynes. The representative sought additional information as regards to whether it was intended

to have 24/7 enforcement and what actual costs of the various services provided , such as vehicle testing.

The Licensing Team Leader told the Committee that enforcement could be provided on a 24hr basis but this would cost more and necessitate additional charges, however the present arrangements included the provision of some night work, to minimise cost this was generally undertaken on an intelligence led basis targeting any perceived or known problems.

The Chair asked that The Licensing Team Leader look at additional brackets for operators and consider making provision for them in future funding calculations, the Team Leader confirmed that he would need to evidence the amount of work that had to be done with such operators before he could set a fee which had to be a non-profit making figure, this was work that would be done in advance of the next annual review.

The Chair proposed that the Committee agree the proposed charges and that consultation process be agreed and commenced.

The Committee agreed the proposal by acclamation.

RESOLVED –

That the proposed Fees and Charges as detailed in the Committee report, for the forthcoming year be agreed for consultation.

Councillor McDonald left the meeting at this point.

RC25

AMENDMENT TO POLICY IN RESPECT OF ENFORCEMENT AND REVISION TO THE PENALTY POINTS WARNING SCHEMES

The Committee considered a report in respect of the Enforcement Policy and a revision of the penalty points warning system.

The Senior Practitioner told the Committee that during the yearlong consultation period in respect of the Taxi policy the issue of enforcement has arisen in a number of respects, one being consistency, the revised policy seeks to provide for a clear arrangement and ensure that there was consistency in procedure and outcomes. The policy seeks to be compatible with relevant legislation.

The Committee heard that the Penalty points scheme had been revised to address some of the concerns raised by drivers. The scheme was a tool to deal with low level issues and was not an alternative to prosecution or other action when that was appropriate.

Following Legal Advice it was noted that it would be acceptable for a sub-committee to issue penalty points as a means of sanction following a review hearing, however, it was anticipated this would be a fairly rare occurrence as matters put to the Sub-Committees seek to have a decision as to whether a driver is a 'fit and proper' person to hold a license, rather than sanction a driver.

The Officer recommended that the Committee endorse the penalty points system, agree the revisions to the policy and refer it to Cabinet for adoption.

Members of the Committee heard that a 12 month rolling period for the tally of penalty points to be carried over, it would be likely that should a driver carry a high points total continually year on year, when it came to the triennial renewal of a license, Officers would put the matter before a Sub-Committee for a review hearing, should a driver be awarded 12 points in a twelve month period this would trigger an immediate review hearing.

The Committee heard that the reason no automatic (Mandatory Penalty suspension of a license for accumulating 12 points had been written into the policy was because to do so would potentially fetter the discretion of the Sub-Committee.

The Committee heard from the representative of the Hackney Carriages Association who expressed concern that there were a number of new suggested offences that would incur penalty points in the revised scheme, that had not been communicated to drivers, he told the Committee that he believed the Council had a responsibility to advise drivers on an individual basis of what changes were being made and what restrictions placed on them. The Senior Practitioner told the Committee that he was awaiting all revisions to the general policy to be approved and adopted by Cabinet at which point he would write to all drivers detailing all new initiatives.

The Chair confirmed that the Penalty Scheme and Policy would be included as a discussion item at the Taxi forum on 8 October 2015.

The Chair proposed that the revised policy together with the penalty points tariff be agreed and referred to Cabinet for adoption within the Taxi Licensing Policy.

The Committee agreed the proposal by acclamation.

RESOLVED-

That the revised penalty points tariff and policy be agreed and referred to Cabinet for adoption.

RC26

AMENDMENT TO POLICY IN RESPECT OF SUB-CONTRACTING, CROSS BORDER HIRING AND OPERATOR CONDITIONS

The Committee considered a report in respect of amendments to the Taxi Licensing Policy in respect of sub-contracting, cross border hiring and operator conditions

The Senior Practitioner told the Committee that the Deregulation Act would come into effect on 1 October 2015, and as a result of this there was a need to make amendments to the policy.

The most significant change was in respect of allowing private hire operators to sub-contract to operators licensed by another District Council, rather than as at present where an operator can only sub-contract to an operator licensed by the same Council.

The purpose of the amendments to the policy aside from making the necessary change was to ensure that operators exercised due diligence when sub-contracting in such circumstances. Ensuring that they appreciate that they remain legally responsible for the booking and could face an enquiry by the Council should anything adverse occur.

In addition the issue of cross-border hiring is considered, this being a legal activity where a member of the public books a hire through a local operator and is provided with a vehicle licensed by another Authority. The policy now makes it clear that the Council wants people in Milton Keynes to be provided with a vehicle and driver licensed by Milton Keynes Council.

The Committee heard that there were a number of other amendments detailed in the report that dealt primarily with administrative processes that operators may or will use, such as smart phone apps bookings.

The Senior Practitioner recommended that the Committee agree the changes to the policy and refer it to Cabinet for adoption.

The Committee heard from the representative of the Hackney Carriages Association who questioned why a local private hire company had vehicles ready for hire at 'Pink Punters' in Bletchley apparently failing to adhere to the requirements of section J3 of the policy in respect of booking records.

The Senior Practitioner confirmed that the Enforcement Team would be looking at this matter and it was to be a point of discussion at the Taxi Forum on 8 October 2015, however on the surface it appeared their conduct was lawful.

The Chair proposed that the amendments be agreed and the policy referred to Cabinet for adoption.

The Committee agreed the proposal by acclamation.

RESOLVED-

That the revised amendments to the Taxi Licensing Policy in respect of sub-contracting, cross border hiring and operator conditions be agreed and referred to Cabinet for adoption.

RC27 REVISION OF STATEMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE (TAXI) LICENSING POLICY

The Committee considered a report in respect of adopted amendments to the Statement of Hackney Carriage and Private Hire (Taxi) Licensing Policy.

The Senior Practitioner told the Committee that at its meeting of 14 September 2015 the Cabinet accepted the amendments to the Policy that resulted from the workshop conducted by the Chair of the Committee together with Councillors Lewis and C Williams, and the amendments agreed by the Committee at its meeting on 8 July 2015, these had now been incorporated into the Policy Document.

The Senior Practitioner reminded the Committee members of some of the notable changes that had been made.

The Committee heard that it was now proposed that all the amendments agreed by the Committee at this meeting be collated and presented to Cabinet for adoption at the earliest opportunity.

RESOLVED-

That the report be noted.

RC28 EXCLUSION OF PRESS AND PUBLIC

RESOLVED –

That the public and press be excluded from the meeting by virtue of Paragraph 3 (Information in respect of information which is likely to reveal the identity of an individual) of Part 1 of Schedule 12A of the Local Government Act 1972, in order that the Committee may consider the exempt minutes of Regulatory Sub-Committees

RC29 MINUTES (EXEMPT PART 2)

RESOLVED –

That the Exempt Part 2 Minutes of the meetings of the Regulatory Sub-Committees listed below be agreed as accurate records and signed by the Chair as such.

- (a) The meeting of the Regulatory Sub-Committee on 14 July 2015 (1)
- (b) The meeting of the Regulatory Sub-Committee on 14 JULY 2015 (2)
- (c) The meeting of the Regulatory Sub-Committee on 27 JULY 2015 (1)
- (d) The meeting of the Regulatory Sub-Committee on 27 JULY 2015 (2)

- (e) The meeting of the Regulatory Sub-Committee on 27 JULY 2015 (3)
- (f) The meeting of the Regulatory Sub-Committee on 12 AUGUST 2015 (1)
- (d) The meeting of the Regulatory Sub-Committee on 12 AUGUST 2015 (2)

THE CHAIR CLOSED THE MEETING AT 9:15 PM