

General Licensing Committee

MEMBERS: Councillor SHUTTLEWORTH (Chairman) Councillor UNGAR (Deputy Chairman), Councillors Mrs ANSELL, Mrs COLES, COOKE, Mrs HEARN, MURDOCH, MURRAY, WARNER and Mrs WEST.

(Apologies for absence were reported from Councillors Stanley, Taylor and Thompson).

1 Minutes.

The minutes of the meeting held on 23 April 2012 were submitted and approved and the Chairman was authorised to sign them as a correct record.

2 Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests under the Code of Conduct.

Several of the Committee members queried whether it would be appropriate for members of the General Licensing Committee who were also members of the Scrutiny Committee to take part in the decision making process on item 7 on the agenda - Hackney Carriage and Private Hire Vehicles - Door Livery and Internal Identification. This item had been referred back to the Committee by the Scrutiny Committee on 10th December 2012 for a review of the decision made on 16th January 2012.

The Regulatory and Litigation Lawyer advised that the Scrutiny Committee had no power other than to refer the item back, that all members of the General Licensing Committee had a duty to consider the matter afresh and that it would be unduly restrictive to regard a member of both Committees who had voted in favour of the referral back at Scrutiny Committee as having predetermined the issue. All members were free therefore to take a full part in the determination of the matter.

It was recommended for clarification however that those members who attended and took part in the debate at Scrutiny Committee on 10th December 2012 should declare it before addressing the Committee on the item. Councillors Coles, Murray, Shuttleworth and Warner all declared that they had attended the Scrutiny Committee on 10 December 2012 that requested the review. Councillor Ungar advised that he was a member of the Scrutiny Committee but was not present at the meeting on 10 December 2012.

Following this clarification, no disclosable pecuniary interests were received.

3 Hackney Carriage and Private Hire Vehicles – Door Livery and Internal Identification.

The Committee considered the report of the Senior Specialist Advisor regarding the livery of taxi and private hire vehicles in the Borough.

At the meeting on the 16 January 2012, the General Licensing Committee decided that all hackney carriages and private hire vehicles licensed by the Borough required permanent corporate livery in addition to further internal corporate identification at the rear of licensed vehicles.

Following this decision, licensed drivers in the Borough submitted a petition at the Taxi and Private Hire Forum on the 9 May 2012. The petition, appended to the report, consisted of 92 signatures challenging the decision.

Correspondence was also received from Mr Martin Reeves, Taxi Proprietor, appended to the report in support of the decision made by the General Licensing Committee on the 16 January 2012.

In light of the petition being received, the issue was raised with the Council's Head of Corporate Development, who gave direction and advice on the appropriate constitutional options for reconsidering of the matter. Subsequently the Chair of Scrutiny requested that the decision be scrutinised to enable resolution.

Following this decision, correspondence was received from the Unite Trade Union, appended to the report, stating that a further petition consisting of 72 signatures from members of the Eastbourne Hackney Carriage Trade had been collated, expressing concern that the enforcement of permanent livery would disadvantage them.

At its meeting on the 10 December 2012, the Scrutiny Committee deliberated the issue and resolved that the General Licensing Committee be requested to review the decision made at its meeting on 16 January 2012 relating to the permanent signage on hackney carriage and private hire vehicles, as opposed to magnetic livery.

Justification for the Scrutiny review centred around the question over whether the policy of permanent livery as opposed to magnetic removable livery went beyond what is necessary and reasonable to provide a safe, accessible and identifiable service for the travelling public, and in particular whether public safety would be maintained by removable livery.

The Scrutiny Committee also raised concerns over whether the cost of complying with a policy of permanent signage would, at a time of economic hardship, place financial strain on members of the licensed hackney carriage and private hire trade, which was not justified.

The Licensing Committee was also requested by Scrutiny Committee to review the decision to include rear interior identification stickers on the grounds that these stickers were perceived to be unsightly, quickly become shabby, obscure vision and were easily removed by passengers.

A review of the decision made by the General Licensing Committee was seen to be within the spirit of local democracy and good practice on the basis that the decision had yet to be implemented 15 months after the decision had been made and the extensive concerns raised by the licensed trade.

The Committee was advised that an additional petition had been submitted by 720 Taxis which supported Option A of the original Licensing Manager's report in January 2012, subject to all signage being magnetic and of an A4 size or similar. It also supported the positioning of the Council information on the front nearside and offside doors, with company advertising positioned at the rear nearside and offside doors. It was also requested that the additional interior Council identification sign, that was voted on at the meeting in January 2012 be withdrawn as the information was already provided on the front nearside passenger windscreen of vehicles.

The Committee were required to either approve the original decision or amend it, in light of the request made by Scrutiny Committee.

Mr David Hopkins, representing 720 Taxis addressed the Committee against the original decision. Mr Hopkins advised that he attended the Taxi Forum where members of the taxi and private hire trade expressed their discontent towards the original decision. Mr Hopkins then made reference to the additional petition that he had submitted in support of Option A of the original Licensing Manager's report. Specific mention was given to the interior sign approved at the January meeting, that Mr Hopkins felt was approved without appropriate consultation with the trade. It was also considered that the sign would provide a danger to drivers as it would obscure vision.

Mr Peter Smith, representing UNITE Hackney Carriage Trade addressed the Committee outlining the concerns that had arisen from the original decision made. Given the current economic climate and that businesses are struggling, Mr Smith advised that the enforcement of permanent signage would disadvantage the Trade, especially those wishing to sell their vehicle in the future, as it would cost money to remove the signage and potentially damage the paintwork upon removal

Mr Smith also advised that the implementation of permanent signage would disadvantage those who use their vehicle for personal use or undertake executive travel jobs and weddings. Mr Smith then outlined the potential risk of permanent signage attracting unwanted attention to thieves, especially when a vehicle was left unattended. Mr Smith suggested that the decision made in January was contrary to the Human Rights Act which stated that individuals are entitled to the peaceful enjoyment of his/her possessions. Permanent signage was seen as an unfair burden on drivers.

To assist with the decision making process, Mr Smith suggested some conditions for the Committee's consideration that would address the issues of those drivers who were not displaying the necessary signage and didn't have the written dispensation from the Council's Licensing department. It was suggested that a three strike rule be implemented where a written warning would be given for the first two offences before a potential suspension of a licence if signage still wasn't displayed.

Mr Smith also suggested having the option of either magnetic or permanent signage for both the Council Corporate signage and optional business specific advertising. Mr Smith then addressed the original request for the Trade to display internal corporate identification. He advised that if this was to still be implemented, the material of the identification would need to be strong, to avoid it being easily damaged.

Mr Martin Reeves, Hackney Carriage Proprietor addressed the Committee in support of the original decision made in January 2012. He made reference to the General Licensing Committee in January 2012 where the decision to implement permanent signage had cross-party support. Mr Reeves believed the original decision was correct in the interests of public safety and improved the image of the Trade.

Mr Reeves then responded to claims that the signage could not be removed easily. He advised that the signage could be easily removed with the use of an item such as a hairdryer. He then addressed the issue of the signage potentially causing further financial strain on drivers. Mr Reeves again made reference to the General Licensing Committee in January 2012, where the Trade had been advised that the first set of Council Corporate Signage would be paid for by Eastbourne Borough Council. Mr Reeves concluded by reiterating his support for the original decision.

The Committee enquired over the consultation phases that took place prior to the first report going to General Licensing Committee in January 2012. Appendix 4 of the original report had shown that only 19.5% of the Trade responded to the questionnaire concerning door livery, with only 23 out of 82 preferring the option of two separate door signs. 46 out of 82 had indicated a preference of magnetic door signs. Mr Hopkins and Mr Smith advised the Committee that unfortunately several members of the Trade conveyed their opinion to their company representative rather than completing the questionnaire themselves.

The Committee then queried what percentage of the trade signed the various petitions that were appended to the report. The Committee was informed that the petition submitted from Unite Trade Union represented an estimated 70% of Hackney drivers in the Borough.

The Committee was advised that the petition submitted by 720 Taxis didn't take into account both 726 and 746 Taxi companies who, although not present tonight, had indicated that they were against permanent signage. The Senior Specialist Advisor referenced the meeting in January 2012, where a representative from 746 Taxis attended the meeting and objected to permanent signage and stated that all current door signs should remain unchanged in principle.

In response to a question from the Committee Mr Smith and Mr Hopkins advised that tonight they were representing approximately 100 licensed drivers each.

The Committee discussed the health and safety issues that may arise from the implementation of magnetic signage. Mr Reeves stated that it had been reported that magnetic signage could easily come off the vehicle. Mr

Hopkins made reference to an incident that was reported in the January 2012 report, where an individual had stolen a magnetic sign and placed it on their car and offered transport to members of the public. The Committee was informed that enquiries had been made to Sussex Police about this incident and they were unable to clarify specific details. Mr Hopkins also stated that magnetic signs had never come off his car in all his years as a licensed driver. Councillor Warner added that past experience had indicated that magnetic signage did not easily come off, however would worsen after longevity.

Another issue that was raised from the potential implementation of magnetic signage was the incidents of individuals within the Trade who did not display their magnetic signage. The Senior Specialist Advisor was asked whether any improvement had been made in regards to this. The Committee was advised that these incidents only reflected a small minority of the trade and currently the Licensing Authority didn't have the power to enforce the display of signage, however a condition could be included in the decision making process tonight. The Regulatory and Litigation Lawyer clarified that while a system similar to Mr Smith's proposed three strike rule could be implemented, discretion would be left to Eastbourne Borough Council Officers to judge each incident individually.

The Committee was advised that a dispensation could be granted to proprietors of private hire vehicles from displaying a licence plate and other vehicle livery when undertaking executive work but again discretion would be left to Eastbourne Borough Council Officers. Mr Hopkins advised that drivers of 720 Taxis that do not display signage are currently dealt with internally.

The Committee discussed the view of Sussex Police on the matter. Previously in 2011, the Police had supported the option of the Council corporate signage to be permanent to minimise the risk of the sign being stolen/coming off to allow the vehicle to be identified at all times. The Senior Specialist Advisor had reported that as part of the review process, following the submission of the various petitions Sussex Police had again been contacted for their views on the matter. It was now indicated that Sussex Police had no strong feelings on the matter of permanent livery.

It was agreed that implementation of signage, whether permanent or magnetic, was important as it would portray professionalism across the trade and help members of the public differentiate between hackney carriage taxis and private hire vehicles. Some members of the Committee stated that implementing permanent signage could potentially discourage people from joining the Trade, especially if they wish to undertake executive travel jobs.

The majority of the Committee favoured the option of magnetic or permanent signage following the strong representations made by the Trade. The Committee considered it important that drivers be allowed a choice so that it would not disadvantage either side. In addition to this, the Committee did unanimously suggest a strong enforcement policy for displaying signage similar to the three strike rule proposed by Mr Smith, with the enforcement being left to the Senior Specialist Advisor's discretion.

The Committee then discussed both the positioning and size of the sign. It was unanimously agreed that both signs would be of equal size with measurements of 22cm by 58cm to maintain consistency and symmetry with each other and be large enough to be easily viewed by members of the public.

Councillor Coles addressed the Committee on behalf of the Disability Involvement Group (DIG). She informed the Committee that DIG supported the option of two separate signs as it would be easier to read. DIG also favoured the positioning of the Council Corporate signage at the rear of the vehicle, as many disabled people favoured sitting in the rear of the vehicle. Councillor Coles also suggested that the internal identification would be useful for those with sight impairment but recommended that it be further consulted with the Trade.

Following discussions the Committee favoured the option of two separate signs with the Council Corporate signage being located on the front nearside and offside door of the vehicle, with the optional business specific advertising to be located on the rear nearside and offside door of the vehicle. The Group identified that the front of the vehicle is predominantly the first part of the vehicle that a member of the public would see. By placing the Council Corporate signage on the front of the vehicle, it would help members of the public distinguish between hackney carriage and private hire vehicles and avoid an unbalanced look. Councillor Coles agreed to support this option, on behalf of DIG following the agreement of two separate signs.

The Committee then considered the wording of the Council Corporate signage. The Regulatory and Litigation Lawyer referenced the Department of Transport – Travel and Private Hire Vehicle Licensing: Best Practice Guidance March 2010 which stated that members of the public can often confuse private hire vehicles with hackney carriage vehicles. The guidance recommended that signage with the wording such as "PRE-BOOKED ONLY" was the best practice as it helped avoid any confusion.

Mr Hopkins suggested that the wording "PRIOR BOOKING ONLY" be used for private hire vehicles as this would be easily understood. The Committee unanimously supported this and agreed that the word "TAXI" would be used for hackney carriage vehicles as this was universally recognised around the world.

The Committee then discussed the decision made at the meeting in January 2012 requesting the display of internal corporate identification. Mr Hopkins had earlier advised that this decision was not consulted appropriately with the Trade and suggested that it be withdrawn from the decision. The Regulatory and Litigation Lawyer clarified that the request for internal identification came out of discussions at the meeting in January 2012 and was not part of the original report. The Committee unanimously agreed that this matter should be further consulted with members of the Trade.

The Senior Specialist Advisor was asked what measures were in place for when the signage required replacing. The Committee was advised that if the Council signage was not readable or damaged then the Council would

reissue another, however the condition of the business sign would be down to the individual. Mr Hopkins and Mr Smith informed the Committee that they would self regulate their drivers as best as possible.

The Regulatory and Litigation Lawyer suggested an implementation date of the livery to be June 2014, which was supported by the Committee. This was a similar length of time proposed to the meeting in January 2012. The Senior Specialist Advisor informed the Committee that there needed to be some leeway on this date due to the time needed to source a supplier etc. This was accepted by the Committee.

RESOLVED: That new vehicle livery for hackney carriage and private hire vehicles be approved to permit two separate door signs as follows:

(By 9 votes to 1) (1) That both the Council corporate sign and the second optional sign to include business advertising be magnetic or permanent.

(Unanimously) (2)(i) The Council corporate sign, to incorporate the Council Corporate branding requirements, to include the Council crest and logo and the colour differential of blue for hackney carriages with the wording "TAXI" and yellow for private hire vehicles with the wording "PRIOR BOOKING ONLY", to be located on the front nearside and offside door of the vehicle.

(ii) That the second door sign to include business specific advertising, to only include the information as detailed in Appendix 10 of the original report in January 2012, with an amendment to permit the use of a website address to be located on the rear nearside and offside door of the vehicle

(iii) That the Council's Licensing Department enforce a strict policy on those hackney carriage or private hire drivers that do not display the required signage.

(iv) In order to prevent forgeries and any variations in content the Council corporate sign shall only be sourced and supplied by the Council's Licensing Department or their nominated supplier.

(3) That consent must be obtained from the Senior Specialist Advisor prior to display of the optional advertising sign.

(4) That the size of both door signs shall be 22cm by 58 cm.

(5) That the hackney carriage and private hire vehicle licence conditions be amended to reflect the approved vehicle door livery.

(6) That the condition to require the display of 2 internal identification plates be withdrawn and consulted upon further with the trade.

(7) That the implementation date for compliance with the new vehicle livery for existing hackney carriage and private hire vehicles be June 2014 (subject to change).

4 Temporary Event Notices

The Senior Specialist Advisor gave an update to the Committee on the changes made to Temporary Event Notices (TEN), as amended by the Police Reform and Social Responsibility Act 2011.

A temporary event notice is required if anyone wishes to hold an event, involving less than 500 people, at which one or more licensable activities will take place that are not authorised by an existing premises licence or club premises certificate.

An individual giving the TEN must fulfil certain conditions in order for the TEN to be authorised. This included providing all the required information about the event and sending a copy to the Council's Licensing Authority, who would forward it onto the police and the local authority exercising environmental health. This should normally be done no later than ten working days prior to the proposed event; however there is a provision for a limited number of late TENs. These could be served up to five working days, but no earlier than nine working days, prior to the event.

The Committee was advised that the Council's Licensing Authority must acknowledge receipt of a TEN before the end of the first working day after the day of receipt. The police and local authority exercising environmental health functions have three working days to give an objection to a TEN where they consider that the proposed activity would undermine the four licensing objectives. A licensing hearing must be held if an objection is made to the TEN, unless all parties agree that no hearing is necessary.

Further details about the changes were contained within the report.

NOTED

The meeting closed at 8.02 p.m.

**A Shuttleworth
(Chairman)**