



EAST
CAMBRIDGESHIRE
DISTRICT COUNCIL

AGENDA ITEM NO. 3

Minutes of a meeting of the Licensing Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Wednesday 9 October 2013 at 9.30am

PRESENT

Councillor Michael Allan (Chairman)
Councillor Sue Austen
Councillor Lavinia Edwards
Councillor Lindsey Harris
Councillor Elaine Griffin-Singh
Councillor Chris Morris
Councillor Tony Parramint
Councillor John Palmer
Councillor Philip Read (from during Minute no. 12)
Councillor Sue Willows
Councillor Andy Wright

APOLOGIES

Councillor Allen Alderson

IN ATTENDANCE

Lin Bagwell – Licensing Officer (Enforcement)
Elizabeth Bailey – Principal Environmental Health Officer
Liz Knox – Head of Environmental Services
Melanie Sage – Democratic Services Officer
Karen See - Principal Environmental Health Officer (until
end of Minute no.13)
Jeanette Thompson – Head of Legal and Democratic
Services/Monitoring Officer

ALSO IN ATTENDANCE

Councillor Tony Goodge
Mr Andy Cundell – Panther Taxis

2 members of the public attended the meeting.

9. DECLARATIONS OF INTEREST

There were no interests declared.

10. MINUTES

It was resolved:

That the Minutes of the Licensing Committee meeting held on 10 July 2013 be confirmed as a correct record and signed by the Chairman.

11. **CHAIRMAN'S ANNOUNCEMENTS**

At a recent Hackney Carriage and Private Hire meeting it had been suggested that the Chairman of the Licensing Committee accompany the taxi trade one evening at a peak time. The Chairman explained that he, along with the Licensing Officer (Enforcement) and the Principal Environmental Health Officer had visited Ely last Friday night from 10pm – midnight. The Chairman stated that they had visited both taxi ranks in the city centre as well as the rank at the railway station, and that he had thoroughly enjoyed the visit which he wished to repeat at some point in the future.

The Chairman wished it be minuted that during the visit on Friday night he had been very impressed with the work of the Licensing Officer (Enforcement), her professionalism and how much she was respected by the drivers. The Chairman congratulated the Licensing Officer (Enforcement).

12. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
HACKNEY CARRIAGE FARES INCREASE PROPOSALS**

Circulated at the meeting was correspondence that had been received subsequent to the agenda dispatch which incorporated:

- An email dated 26 September 2013 from Mr John Skipper of A10 Taxis sent to the Licensing Committee;
- Letter dated 1 October 2013 from National Private Hire Association to Licensing Officer (Enforcement);
- Letter dated 4 October 2013 to National Private Hire Association from Head of Legal and Democratic Services;
- Letter dated 7 October 2013 from National Private Hire Association to Head of Legal and Democratic Services.

The Chairman suspended the meeting at 9.34am to enable the Committee to read the material.

With the agreement of the Committee, the meeting resumed at 9.41am.

The Licensing Committee was presented with a report, (N117), previously circulated, for the Licensing Committee to consider objections received under Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976 to the revised Hackney Carriage table of fares proposed by the Licensing Committee on 10 July 2013.

The Licensing Officer (Enforcement) referred Members to a typographical error within paragraph 3.11, page 3 of her report as follows (illustrated in bold type face):

*'The waiting time can be set as required at £1.20 per **3 minutes** or part thereof.'*

Further to the correspondence circulated at the meeting, the Licensing Officer (Enforcement) explained that at the previous Licensing Committee

meeting on 10 July 2013, Members had received a report to review the Hackney Carriage table of fares, at the request of the Hackney Carriage vehicle proprietors, and that the report contained a number of proposals from the trade which the Committee had considered.

The Licensing Officer (Enforcement) explained that all of the tariff increase proposals were sent to Mr Cundell of Panther Taxis Ltd, who calibrated taximeters, and he had confirmed that each proposal could be calibrated into the taximeters. Mr Cundell had also suggested that 'odd amount' increments, such as the 17p be rounded up to a whole decimal number such as 20p, to prevent problems for drivers and customers requiring the correct change.

The Licensing Officer (Enforcement) stated that when the Committee agreed the Hackney Carriage table of fares at its meeting on 10 July 2013 she had not been aware of any mathematical error. The Licensing Officer (Enforcement) explained that when Mr Cundell provided his advice he was not aware that the Hackney Carriage table of fares contained a charge for 'every mile thereafter'.

The Committee was therefore requested to re-consider the 'every mile thereafter' and 'for each subsequent tenth of mile' fees for Rates 1 and 4.

The Licensing Officer (Enforcement) explained that three objections had been received following the advertisement of the revised Hackney Carriage table of fares in the Cambridge News on 18 July 2013. Aside from suggesting amendments to Rates 1 and 4, objections also highlighted that the 'waiting time' for Rate 1 (set at £1.00 for each period of 3 minutes) differed to Rates 2, 3 and 4 (set at £1.20 for each period of 3 minutes).

It was noted by the Licensing Officer (Enforcement) that although the Licensing Committee at its meeting on 10 July 2013 had not amended the fees for 'waiting times' a valid objection had been received and therefore the Committee had to consider this matter in addition to the inaccuracies of Rates 1 and 4.

Cllr Griffin-Singh stated for the purposes of clarification that advice provided by Mr Cundell was inaccurate as he had not been aware that the Council's Hackney Carriage table of fares contained a charge for 'every mile thereafter' and that the trade were correct in their assertions that the table of fares was mathematically incorrect. In response the Licensing Officer (Enforcement) explained that all documentation produced for the Licensing Committee had also been provided to Mr Cundell. The Licensing Officer (Enforcement) stated that she was of the impression that any amount could be calibrated into a taximeter and it was only yesterday that she had become aware that the table of fares was mathematically incorrect.

Cllr Wright noted that although he was not at the last Licensing Committee meeting, in the initial email from Mr Cundell that was contained within the agenda for that meeting, Mr Cundell had confirmed that increments of 20p were possible. However, in order to do this the distance would need to be adjusted. The Committee did not resolve to do this and as a result a table

of fares had been approved that was mathematically impossible, which was then advertised. Cllr Wright stated that Mr Cundell could not be used as the reason for the error as he had provided the correct advice.

At the invitation of the Chairman, Mr Cundell addressed the Committee. Mr Cundell explained that from his perspective of calibrating taximeters any amount could be programmed into a taximeter and if requested he could provide advice on the mathematical workings of fees. Mr Cundell stated that Panther Cars calibrate taximeters for a number of firms throughout the county and no other authority has specified within their table of fares 'every mile thereafter'. Mr Cundell explained that this was the reason that he had provided the wrong answer. 'Every mile thereafter' was not usually included within a table of fares as it was unusual for any journey to drop on a completed mile.

The Head of Legal and Democratic Services stated that the types of fees contained within the table of fares was historical and referring to Rate 4, the Head of Legal and Democratic Services wanted to clarify with Mr Cundell whether 'for each subsequent tenth of mile' rate of 20p could ever achieve the 'every mile thereafter' rate of £3.50. Mr Cundell explained that to achieve the 'every mile thereafter' rate of £3.50 the rate 'for each subsequent tenth of mile' would need to be increased from 20p to 35p. If the 20p fee was retained Mr Cundell explained that the taximeter would need to be calibrated to drop quicker. However, this would only achieve a maximum fee of £3.40, not the proposed £3.50.

Regarding Rate 1, the Head of Legal and Democratic Services asked Mr Cundell to confirm that to achieve a rate of £1.70 for 'every mile thereafter', the rate 'for each subsequent tenth of mile' would need to be decreased from 20p to 17p or the rate increased to £2.00 for 'every mile thereafter'. Mr Cundell confirmed that you could not calibrate £1.70 from 20p per tenth of a mile.

At the invitation of the Chairman, Cllr Goodge addressed the Committee. Cllr Goodge stated that at the last meeting he had proposed amendments to the Hackney Carriage table of fares which had been seconded by Cllr Read and had been based on proposals by the trade listed as Appendix 7 and 8 of the officer's report (report N49). These proposals included an increase in Rate 1 'for each subsequent tenth of mile' from 17p to 20p and a new Rate 4 which included 'for each subsequent tenth of mile' of 20p. Cllr Goodge noted that there had also been a suggestion that odd incremental amounts be rounded up to a whole decimal number to prevent issues for drivers and customers requiring change.

Cllr Goodge stated that he had unfortunately not realised the anomalies when he proposed the amendments to the table of fares and this was not highlighted by any officers present at the meeting. Subsequently during the meeting Cllr Goodge stated that the trade had informed him of this error, which he expressed during the meeting, and he had suggested that 'each subsequent tenth of a mile' within the new Rate 4 should be 35p, not 20p, as a tenth of £3.50 was 35p. Cllr Goodge stated that he was informed that if there was an issue with the rates that these would be brought before the

Licensing Committee. He had not realised that mathematically incorrect fares would be advertised in the press and he suspected that the new table of fares would now need to be re-advertised in the press. Cllr Goodge had expected the distance to have been amended to achieve the rates set.

The Head of Legal and Democratic Services confirmed, as detailed within the officer's report, that the final decision made by the Committee at the meeting today would be the approved Hackney Carriage table of fares and no further advertisement or public consultation was required under the legislation.

At the invitation of the Chairman, Mr Skipper of A10 Taxis addressed the Committee. Mr Skipper stated that it was annoying that no member of the Licensing Committee had identified the error with the Hackney Carriage table of fares. Mr Skipper stated that it had been obvious that the table of fares was incorrect and subsequently it had made the Council look bad. Mr Skipper wanted to know why it had taken so long to rectify the situation. Due to this Mr Skipper stated that the trade had suffered significant financial loss, which he hoped the trade would be compensated for. Mr Skipper stated that Mr Cundell was not a contributing factor in this matter as it was an obvious error that should have been identified earlier.

The Chairman stated that there had been some confusion at the meeting and it was not until after the Committee had made a decision that the errors had been fully identified. The Chairman could not confirm that the trade would be compensated for any financial loss.

The Licensing Officer (Enforcement) stated that after the meeting she had confirmed that once the Committee had made a decision that this could not be altered and that irrespective of the mathematical inaccuracies of Rates 1 and 4 the Licensing Committee still needed to consider the table of fares at this meeting as a valid objection had been received regarding the fees for 'waiting times'.

At the invitation of the Chairman, Mr Lane of A10 Taxis addressed the Committee. Mr Lane stated that he had unsuccessfully pursued the inaccuracy during the meeting, as had Cllr Goodge. Mr Lane stated that he had then attempted to explain the situation to officers/Members after the meeting.

The Head of Legal and Democratic Services explained there was nothing within the process set out under the legislation for approval of fares that prevented the Council from testing whether the amounts set could be calibrated as well if the tariff rates were acceptable. Mr James Button, who was a Legal licensing expert, had also confirmed this. There was a consultation process that had to be followed, to enable objections to be made, which the Committee was now considering. The Head of Legal and Democratic Services explained that the Licensing Committee now had to make a decision on the Hackney Carriage table of fares which was workable.

The Chairman encouraged Members to now consider revisions to the Hackney Carriage table of fares.

Cllr Wright stated that he despaired – an error had been highlighted with the table of fares during and after the previous Licensing Committee meeting, yet a bureaucratic process had been followed and an advert placed in the press of an unworkable table of fares. Cllr Wright stated that there was no reason why a special meeting of the Licensing Committee could not have been convened to resolve the issue sooner, rather than waiting until today, 3 months later. Cllr Wright stated that businesses and incomes were dependant on decisions made by the Licensing Committee. It was obvious that ten 20 pence's did not equate to £1.70, although Cllr Wright was sure that the Council's Head of Finance would be much happier if it did in order to alleviate some of the Council's financial issues. Cllr Wright stated that a simple error had escalated into an issue bigger than it needed to be, ending with correspondence to the Council from the National Private Hire Association and a 3 page letter of response from the Council. The Council had published a table of fares which was unachievable yet the officer's report stated that 'objectors perceive that a mathematical error occurred', which they were correct to perceive.

Cllr Wright proposed that to resolve the matter that for Rate 1 'for each subsequent tenth of mile' remain at 20p, for Rate 4 'for each subsequent tenth of mile' be increased from 20p to 35p and that the 'every mile thereafter' be removed from Rates 1 and 4. This proposal was seconded.

At 10.08am Cllr Read entered the meeting at this point.

As Cllr Read had entered the meeting late, for the purposes of transparency, the Democratic Services Officer explained the amendments that had been proposed to the Hackney Carriage table of fares. Cllr Read stated that due to his late arrival he would abstain from any voting.

The Chairman suggested that the 'every mile thereafter' fee also be removed from Rates 2 and 3, which Cllr Wright accepted within his proposal.

The Chairman referred to the objection regarding the fees for 'waiting times'. The Licensing Officer (Enforcement) stated that during the consultation process two objections had been received regarding the inconsistency in the fee for 'waiting time'. The 'waiting time' fee in Rate 1 differed to all other Rates and it had been suggested that the 'waiting time' fee for all Rates be the same (£1.20).

Cllr Morris proposed that the 'waiting time' fee for Rates 1 – 4 be set at £1.20, which was accepted by Cllr Wright.

Mr Cundell was consulted on whether from his perspective the proposed amendments to the table of fares were feasible. Mr Cundell stated that with the proposed amendments to Rate 1, every mile after the first mile would now cost £2, and that the amendments now worked mathematically.

In relation to waiting time Mr Cundell suggested that the Committee might wish to decrease the waiting time as currently if a driver had to wait he would not receive a fee until he had waited 3 minutes. Mr Cundell suggested on the basis of the current proposal of £1.20 for 3 minutes waiting time that

Members might wish to charge 40p for 1 minute or break it down further into 10 second intervals. Mr Cundell noted that the majority of authorities specified smaller intervals for waiting time.

Cllr Read stated that the table of fares was being amended for the benefit of the trade. However, he wondered what the public would think about the waiting time fee. The Licensing Officer (Enforcement) explained that this fee would be applicable if during the journey the driver was at a standstill due to traffic.

Following the Democratic Services Officer relaying the current proposed amendments, the Chairman proposed that the fee for 'waiting time' be amended to 40p per one minute, which was accepted by the Committee.

In response to a question, Mr Cundell stated that he could arrange for a taximeter to be calibrated within 24 hours.

The Head of Legal and Democratic Services requested that the Licensing Committee consider the date that the table of fares should become effective from, given that a taximeter could be calibrated within 24 hours. The date had to be realistic as the trade had to be notified and able to display a new table of fares, and must charge that rate as soon as the new rates became effective, as this was a requirement under the Byelaw.

Cllr Goodge noted that within the minutes of the previous meeting it had been resolved that the table of fares would become effective if any objections were received as of 2 November 2013. The Head of Legal and Democratic Services explained that Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976 stated that the proposed table of fares must be implemented within two months after the first specified date (ie 2 September) in the Notice advertised, which would be 1 November 2013. Within the officer's report it was suggested that the table of fares become effective as of one minute past midnight on 1 November 2013. The Head of Legal and Democratic Services enquired whether the Licensing Committee wanted the new table of fares to be effective earlier than this date.

With the Chairman's permission, Mr Skipper stated that it was a question of how long it would take officers to prepare and circulate the fare cards for display in the vehicles.

The Head of Legal and Democratic Services re-emphasised that the trade needed to be notified and provided with new fare cards by the effective date in order to be compliant.

Cllr Willows suggested that the Hackney Carriage table of fares become effective in seven days time. The Licensing Team was asked whether this gave them sufficient time. The Principal Environmental Health Officer stated that the Licensing Team would need to amend and print the new Hackney Carriage table of fares and circulate letters to the trade to notify them of the new table of fares. Given that the district had 104 licensed Hackney Carriage vehicles this would take the Licensing Team a reasonable

amount of time. The Committee would also need to consider the time required to calibrate the taximeters.

Cllr Morris proposed that the revised Hackney Carriage table of fares come into force at 00.01 (1 minute past midnight) on 1 November 2013, which was seconded. It being put to the vote the proposal was carried.

Subsequently, on being put to the vote, the following variations to the Hackney Carriage table of fares was carried:

- Every mile thereafter (approx. 1.6093 kilometres) listed in all Rates (1 – 4) be removed from the Hackney Carriage table of fares.
- Rate 4 - For each subsequent tenth of mile (approx. 0.16093 kilometres) or uncompleted part thereof be increased from 20p to 35p.
- Waiting Time - listed for all Rates (1 – 4) be amended as follows:
For each period of ~~one three minutes or uncompleted part thereafter~~ **40p**

It was then resolved:

That the Licensing Committee considered the objections and agreed the following variations to the Hackney Carriage table of fares (the complete Hackney Carriage table of fares, including the variations, was included within these minutes for the sake of transparency):

- Every mile thereafter (approx. 1.6093 kilometres) listed in all Rates (1 – 4) be removed from the Hackney Carriage table of fares.
- Rate 4 - For each subsequent tenth of mile (approx. 0.16093 kilometres) or uncompleted part thereof be increased from 20p to 35p.
- Waiting Time - listed for all Rates (1 – 4) be amended as follows:
For each period of ~~one three minutes or uncompleted part thereafter~~ **40p**

The revised Hackney Carriage table of fares to come into force at 00.01 (1 minute past midnight) on 1 November 2013.

At the conclusion of the item Cllr Wright stated that a serious review of procedures should be conducted as an advert had been published, which was costly, at the expense of the Council and subsequently an issue had escalated unnecessarily which had affected businesses. Time and resources had been also been wasted. Cllr Wright stated that the advert should have been proof read before publication and that every licence was a tax on a business.

FARES FOR DISTANCE

(A) RATE 1

For the first mile (approx. 1.6093 kilometres)	£3.50
For each subsequent tenth of mile (approx. 0.16093 kilometres) or uncompleted part thereof	20p

Waiting Time

For each period of one minute	40p
-------------------------------	-----

(B) RATE 2

For hiring begun between 19.00 and 07:00 from Monday evening to Saturday morning inclusive

For hiring begun between 13:00 on a Saturday until 07:00 on a Monday

For the first mile (approx. 1.6093 kilometres)	£4.00
For each subsequent tenth of mile (approx. 0.16093 kilometres) or uncompleted part thereof	20p

Waiting Time

For each period of one minute	40p
-------------------------------	-----

(C) RATE 3

For hiring on public or Bank Holidays

For the first mile (approx. 1.6093 kilometres)	£5.50
For each subsequent tenth of mile (approx. 0.16093 kilometres) or uncompleted part thereof	20p

Waiting Time

For each period of one minute	40p
-------------------------------	-----

(D) RATE 4

For hiring on Christmas Day

<i>For the first mile (approx. 1.6093 kilometres)</i>	£6.00
<i>For each subsequent tenth of mile (approx. 0.16093 kilometres) or uncompleted part thereof</i>	35p

Waiting Time

<i>For each period of one minute</i>	40p
--------------------------------------	-----

(E) SUNDRY ITEMS

<i>For each article of luggage carried outside the passenger compartment of the carriage</i>	25p
--	-----

<i>For each passenger in excess of one (two children under 12 years old shall count as one person and children under the age of three shall not be counted). No charge shall be made where a person is carried whose illness or physical incapacity requires that he or she must be accompanied at all times when away from his or her place of residence.</i>	25p
--	-----

<i>Where the hirer arranges by letter, telephone or otherwise with the proprietor or driver prior to commencement of hiring, for hire of the carriage to commence from a stated place other than a hackney carriage stand.</i>	50p
--	-----

<i>Soiling the interior of the vehicle</i>	<i>Not to exceed</i>	£90.00
--	----------------------	--------

<i>Conveyance of bicycles or trunks where they have to be carried</i>	£1.00
---	-------

<i>Pets (excluding assistance dogs)</i>	£1.00
---	-------

Cllr Goodge stated that the Legal Team should have responsibility for the licensing function. Licensing was a legal related matter and therefore Cllr Goodge stated that it should be within their jurisdiction, as it once was. Cllr Wright concurred with these comments. The Head of Legal and Democratic Services stated that as Members were aware there was currently a 'root and branch' review of Council services being conducted and one of those being the Licensing function.

Cllr Wright requested that these comments be fed into the 'root and branch' review.

At 10.35am Cllr Goodge left the Council Chamber and did not return to the meeting.

Cllr Austen referred to Appendix 5 of the officer's report (letter from the National Private Hire Association) and enquired why parts of the letter had been redacted. The Principal Environmental Health Officer explained that the letter included information on a separate issue in relation to Disclosure and Barring Service checks.

*The Chairman adjourned the meeting at 10.36am to allow for a comfort break.
The meeting resumed at 10.42am.*

13. **SCRAP METAL DEALERS ACT 2013**

The Licensing Committee received a report, (N118), to highlight the new licensing regime under the Scrap Metal Dealers Act 2013 and to agree the proposed fee structure, prior to consultation.

The Scrap Metal Dealers Act 2013 ('the Act') received Royal Assent on 28 February 2013 and came into force on 1 October 2013.

The Act repealed the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, creating a revised regulatory regime for scrap metal recycling and dismantling, bringing together scrap metal dealers and motor salvage operators under one Act.

Under the new Act Local Authorities remained the principal regulators. However, the new Act provided Local Authorities with the power to better regulate these businesses by allowing licences to be refused if an applicant was deemed to be 'unsuitable' and a power to revoke licences if the dealer become 'unsuitable'. The Act also provided Local Authorities and Police Officers with suitable powers of entry and inspection.

When determining an application the Act listed details that the authority could consider in determining whether a person was 'suitable', including if the person has been convicted of any relevant offences or subject to any relevant enforcement action.

If the Council proposed to reject an application (or revoke or vary a licence) the applicant had the opportunity to make representations. If the

applicant stated that they wish to make oral representations then they had to be provided with the opportunity to a hearing before a Licensing Subcommittee, for a decision to be made.

The Act provided that an application for a licence had to be accompanied by a fee. The fee was individual to each local authority, although regard had to be paid to Home Office guidance (attached as Appendix B to the officer's report) as to the type of activity and administrative tasks that could be included when setting the licence fees. In addition, the EU Services Directive stated that a licence fee could only be used to pay for the cost associated with the licensing process, and different fees should be specified for each category of application.

There were two types of licence specified within the Act – a Site Licence and a Mobile Collector Licence - and the following fee levels were proposed for licences issued by East Cambridgeshire District Council:

Initial Site Licence fee	£300.00
Site Licence renewal	£175.00
Initial Collectors Licence fee	£200.00
Collectors Licence renewal	£140.00
Variation for both licences	£60.00

The Principal Environmental Health Officer explained that having searched the website most local authorities were charging fees of £200 - £300 for each initial licence.

The district currently had 22 scrap metal dealers and 5 motor salvage operators.

Local Authorities were facing the challenge of introducing the new licensing regime in a short timescale. Guidance on fee setting was received on 12 August 2013 and further guidance on enforcement was still awaited (provisions for enforcement and offences come into force on 1 December 2013).

Due to the short timescales required to introduce the Act a short consultation period of 4 weeks was proposed, ending on 6 November 2013, which would be targeted at individuals and groups such as existing scrap metal dealers, other Local Authorities, the Environment Agency, and the Police etc.

The Principal Environmental Health Officer explained that the suggested fees were considered fair and appropriate following calculation of the best estimate of the cost likely to be incurred by the Local Authority. Certain costs had not been included (for example those for arranging a licensing hearing if applicants are not considered suitable etc), as an assessment of these costs could only be identified following a period of operating under the new regime and having the actual evidence base on which to revisit officer and member time. A full breakdown of how the fees had been established had not been

included in the officer's report as this contained sensitive information on individual salaries.

At 10.46am Cllr Morris left the Council Chamber.

In response to questions regarding the types of licences, the Principal Environmental Health Officer explained that the Site Licence was for businesses that operated from a specified site and a Collectors Licence was for mobile collectors that collected from door-to-door and did not have a site. Licences were issued for a 3 year term. The fee to renew a licence was less than the initial licence fee on the basis that the assessments of the business had already been concluded. The fee for a Collectors Licence was less than a Site Licence as there was no site to inspect. When a person applied for a Collectors Licence it was anticipated that the person would attend the Council offices or alternatively the Council could do a home visit.

Cllr Morris returned to the meeting at 10.48am.

Regarding the 'Variation for both licences' fee it was explained that this fee was required if details of a licence were amended, for example, a change of vehicle or site manager.

In response to questions the Principal Environmental Health Officer explained that:

- All licensees were required to display a copy of their licence. For mobile collectors the licence had to be displayed in a manner which enabled the licence to be easily read by a person outside of the vehicle.
- A person could not hold a Site Licence and a Collectors Licence with one authority. The Act compelled an individual to determine the type of business that they operated.
- A Collectors Licence authorised the licensee to collect material from only within the boundary of the authority that issued the licence. If a mobile collector wanted to collect scrap metal from outside that authority area a separate Collectors Licence would be required from each authority.
- If an application was received for a Site Licence and for a Collectors Licence with two separate business names, but both of which involved the same person/s, this would be identified during the application process as all persons involved in the businesses were required to be named and therefore the applications would be refused.

Cllr Wright suggested that the Council should raise its concerns to Government as it did not make sense that a person could not hold a Site Licence and a Collectors Licence with one authority. Cllr Wright suspected that in an attempt to resolve this issue, in the case where several family members were involved in a scrap metal business that a different family member with separate business details would each apply for a licence.

The Chairman suggested that as Hackney Carriage and Private Hire vehicles had to display vehicle plates that it would be worth considering a similar principle for mobile collectors so that licences were easily identifiable.

Cllr Parramint noted that some scrap yards collected vehicles for recycling which was a useful activity that he hoped the Act did not prevent. The Principal Environmental Health Officer explained that the Act did acknowledge and allow for those businesses that collected cars for recycling.

Cllr Wright enquired how the Act impacted on demolition companies which also involved the transportation of scrap metal and whether the authority could impose conditions on site licences. The Principal Environmental Health Officer explained that the Act required a scrap metal dealer to obtain a licence in order to carry on a business as a scrap metal dealer, which the local authority was responsible for administering and determining the 'suitability' of that person. However, there were other agencies involved in the establishment of a scrap metal business that would be required to issue other types of licences such as the Environment Agency who issued Waste Permits.

Cllr Read noted that the relevant planning authority would impose conditions on the site, such as the maximum height that scrap metal should be stored, and the Environment Agency would be involved in imposing conditions regarding the disposal of the waste.

Cllr Griffin-Singh enquired whether a complaint would be the prompt for a site inspection. The Principal Environmental Health Officer explained that a site inspection would be conducted when an initial application was submitted and subsequently an inspection would be conducted once every three years.

Cllr Wright enquired how the Act impacted on waste transfer stations where the material from skips was deposited. The Principal Environmental Health Officer explained that this would depend on whether scrap metal was the major part of its business. The Head of Legal and Democratic Services further added that it would also be dependent on what the business did with this material following collection.

Cllr Read further noted that there are often tight controls when a building was demolished.

It was resolved:

That the Licensing Committee:

- i. Approve the level of fees for the new licensing regime under the Scrap Metal Dealers Act 2013 outlined in paragraph 3.10 of the officer's report.
- ii. Agree to public consultation on the level of fees. If objections were received a report would be brought back to Licensing Committee for consideration.

It was resolved to RECOMMEND TO COUNCIL:

That the Licensing Committee authorise the Monitoring Officer to include any contested hearings/ revocations under paragraph 3.1 of the Licensing Committee's Terms of Reference, as a Sub-Committee hearing matter.

14. **REVIEW OF LICENSING SUB-COMMITTEE HEARINGS PROCEDURE AND SITE VISIT PROCEDURE/ REVIEW OF PUBLIC SPEAKING AT LICENSING COMMITTEE MEETINGS**

The Head of Legal and Democratic Services presented a report, (N119), previously circulated, for Members to consider and approve:

- the revised Hearings Procedure for Licensing Sub-Committee Hearings, set out in Appendix 1 to the officer's report;
- the site visit guidance for Licensing Sub-Committee meetings, set out in Appendix 2 to the officer's report;
- the 'Public Speaking at Licensing Committee' leaflet, attached as Appendix 3 to the officer's report.

Training on Licensing Sub-Committee Hearings had been received by a number of Licensing Committee Members and officers and as a result it was advisable that some elements of the Hearings Procedure should be reviewed. It was also noted that a review of the Procedures was also appropriate given the length of time since the Procedures were last considered by the Licensing Committee.

In relation to Appendix 1 - the revised Hearings Procedure for Licensing Sub-Committee Hearings - it was noted that the most significant amendment related to the length of time in which registered speakers could address the Sub-Committee. The wording in the Procedure had been amended so that speakers were not restricted to 5 minutes. It was preferable for the authority to allow registered speakers time to address the Sub-Committee, rather than potentially have the decision appealed to the Magistrates' Court. For fairness, the regulations stated that the Council must ensure that equal time was offered to each of the registered categorised speakers.

In relation to Appendix 2 - Site Visit Guidance - it was explained that there was no significant amendments proposed to the guidance and that Appendix 3 - Public Speaking at Licensing Committee leaflet had been updated, as per the tracked changes illustrated within the document.

The Head of Legal and Democratic Services informed Members that a report would be presented to Council to clarify the Council Procedure Rules on Members speaking rights as some confusion has previously arisen at Planning Committee regarding the right of a District Member to speak at a Committee meeting and any restrictions that applied when there was a Public Speaking Scheme in place.

In response to a question by the Chairman, the Head of Legal and Democratic Services confirmed that a suggested change to the Public Speaking at Licensing Committee' leaflet was that persons wishing to speak at a Licensing Committee meeting must call the Democratic Services team no later than 5pm the day before the meeting.

Cllr Wright referred to the fourth paragraph of Appendix 2 - Site Visit Guidance and stated that it was difficult not to converse with an applicant if they were present at a site visit, especially if the site visit was taking place on the applicant's property. Cllr Wright stated that an officer should always be present at a site visit to control what was said and that anything said by the applicant would assist to enhance the matter.

Cllr Read noted that the Planning Committee regularly attended organised site visits and that it was important for Members to be circumspect on the questions they asked.

It was resolved:

That the Licensing Committee approves:

- i. the revised Hearings Procedure for Licensing Sub-Committee meetings, set out in Appendix 1 of the report;
- ii. the Site Visit Guidance for Licensing Sub-Committee meetings, set out in Appendix 2 of the report; and
- iii. the updated 'Public Speaking at Licensing Committee' leaflet, set out in Appendix 3 of the report.

15. **PUBLICATION OF INFORMATION AFTER SUB-COMMITTEE HEARINGS**

The Head of Environmental Services presented a report, (N120), for Members to consider the extent of information published openly following a Taxi Licensing Sub-Committee.

At the Licensing Committee meeting on 17 April 2013 Members resolved that Taxi Licensing Sub-Committee Hearings remained in exempt session and it was requested that officers further investigate whether details such as the licensee/applicant name could be published openly after exempt hearings.

Taxi Licensing Sub-Committee Hearings were exempted under the provisions contained within the Local Government Act 1972, Schedule 12A Part 2, Paragraph 10.

It was explained that on revocation or suspension of a Hackney Carriage and Private Hire Drivers licence, the licensee was required under condition 13 of the Hackney Carriage and Private Hire Drivers Licence to return their driver badge, A5 dash board photographic identification card and

A4 photographic identification card to the Council. Without these documents and identification the driver was not allowed to drive. It was an offence for anyone to drive a Hackney Carriage and Private Hire Vehicle whilst suspended or without a licence. Failure on the part of the driver to produce the A4 identification prior to driving would be identified by the Operator.

To confirm the licensed status the Council held a public register of all current licensed drivers. The register provided confirmation and an additional way of checking those drivers that were currently licensed. The public register was available on the Council Website, in addition to contact being made with the Licensing Team. If a Licensee had their licence revoked their details were removed from the public register.

It was recommended to Members that the Applicant/Licensee name and Hearing details not be openly published after attendance at a Licensing Sub-Committee hearing.

Cllr Wright stated that the original question by the Licensing Committee had been whether or not following a Taxi Licensing Sub-Committee meeting the details of the Driver/Applicant could legally be published.

The Head of Environmental Services explained that Taxi Licensing Sub-Committee meetings were exempted under the provisions of Schedule 12A of the Local Government Act 1972. This Act stated that such exempt information was 'exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.' Whilst in effect the opportunity existed for information to be made public, any individual request would need to be considered on a case-by-case basis in line with section 10 of Schedule 12A of the Local Government Act 1972.

Cllr Read noted that if a Licensee had their licence revoked their details were removed from the public register. The Head of Legal and Democratic Services noted that the public register only reflected if a licence was revoked and did not reflect any other sanctions imposed on the licence, eg suspension, training.

Cllr Wright stated that this still did not answer the question and he enquired whether after the 21 day appeal deadline to the Magistrates' Court whether a licensee name could be openly published.

The Chairman stated that he personally believed that if a licence holder had to attend a Taxi Licensing Sub-Committee Hearing that this should be in public as if the licence holder appealed the Sub-Committee decision to the Magistrates' Court that this would be a public Court hearing.

The Head of Legal and Democratic Services summarised that Members had previously resolved that Taxi Licensing Sub-Committee Hearings should remain in exempt session and that Members and Officers had to be mindful of the information released, otherwise the category/categories used to exempt the meeting could be invalidated. Should Members wish to publish the

licensee/applicant name after exempt hearings the Head of Legal and Democratic Services stated that this would require consultation with the trade, advising the trade of the implementation date that the change would be effective from and relevant Council forms would require amendment. Failure to do this could result in an infringement of data protection legislation. The Head of Legal and Democratic Services noted that the public minutes of the Taxi Licensing Sub-Committee would require careful consideration as to the content.

The Chairman agreed that there was a significant amount of personal information included within a Taxi Licensing Sub-Committee agenda. However, if the Taxi Licensing Sub-Committee resolved that no action was required against a licence holder then the name should not be published, but for the sake of transparency if the Taxi Licensing Sub-Committee resolved that some form of sanction should be applied to the licence then the name should be published.

Cllr Griffin-Singh accepted the concept of innocent until proven guilty, but it was in the public interest for the name of a licence holder to be published if the Taxi Licensing Sub-Committee deemed a person not to be 'a fit and proper person'.

Cllr Wright proposed that the Licensing Committee instructs the Head of Legal and Democratic Services to format wording for consultation with the Hackney Carriage and Private Hire Trade to inform them that following future Taxi Licensing Sub-Committee Hearings involving disciplinary matters only, once the appeal period had expired, where the Sub-Committee resolved to take action, that the Licensee name would be openly published, accompanied with the disciplinary action. Cllr Wright noted that this would not apply to new applicants.

In response to comments by the Licensing Officer (Enforcement) it was confirmed that the Licensee name will be openly published involving disciplinary matters only, not when the Taxi Licensing Sub-Committee Hearing involvements matters relating to medicals.

The Head of Legal and Democratic Services stated that consultation with the Hackney Carriage and Private Hire Trade would be for a 28 day period and in response to question she confirmed that the Licensing Committee Members would be emailed with the proposed consultation wording, prior to consultation with the Hackney Carriage and Private Hire Trade.

It was resolved:

That the Licensing Committee instructs the Head of Legal and Democratic Services to format wording for consultation with the Hackney Carriage and Private Hire Trade to inform them that following future Taxi Licensing Sub-Committee Hearings involving disciplinary matters only, where the Sub-Committee resolves to take action, that the Licensee name will be openly published with the disciplinary action. The Head of Legal and Democratic Services should do so having consulted

the Licensing Committee Members by email on the proposed consultation wording.

16. **FORWARD AGENDA PLAN**

The Committee received and considered the Licensing Committee forward agenda plan.

The Committee was informed that the Licensing Team were currently liaising with the taxi trade regarding a Private Hire Operating Condition and dependent on the outcome, there might be an exempt report presented to a future Licensing Committee on this matter.

It was resolved:

That the Licensing Committee forward agenda plan be noted.

17. **TAXI LICENSING SUB-COMMITTEE MINUTES**

The Licensing Committee received the minutes of the Taxi Licensing Sub-Committee meetings held on 10 July 2013 in respect of Driver (v) and 22 July 2013 in respect of Driver (viii).

It was resolved:

That the minutes of the Taxi Licensing Sub-Committee meetings held on 10 July and 22 July 2013 be received and noted.

18. **EXCLUSION OF THE PRESS AND PUBLIC**

It was resolved:

That the press and public be excluded during the consideration of the remaining item because it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item there would be disclosure to them of exempt information of Category 1, 2 and 7, Part 1 Schedule 12A to the Local Government Act 1972 (as amended).

19. **TAXI LICENSING SUB-COMMITTEE - EXEMPT MINUTES**

The Licensing Committee received the exempt minutes of the Taxi Licensing Sub-Committee meetings held on 10 July 2013 in respect of Driver (v) and 22 July 2013 in respect of Driver (viii).

It was resolved:

That the exempt minutes of the Taxi Licensing Sub-Committee meetings held on 10 July and 22 July 2013 be received and noted.

The meeting concluded at 11.30am.

After the conclusion of the Licensing Committee meeting an information/training session was scheduled on the Licensing Act 2003 - Premises Licence Applications and Hearings – an Overview, Update and Information Session on the Application Process for Premises Licences, Mediation when representations are made and the Hearing Process. However, given the length of time that the Licensing Committee had taken to conclude its business, Members decided to defer this training until the next appropriate Licensing Committee meeting.