

# **NORTHAMPTON BOROUGH COUNCIL**

## **LICENSING COMMITTEE**

**Tuesday, 11 December 2012**

**PRESENT:** Councillor Malpas (Chair); Councillors Beardsworth, Ford, Patel, Sargeant, Strachan and Wire DL.

### **1. APOLOGIES**

Apologies for absence were received from Councillors Capstick, Duncan, Eales and Hill.

### **2. MINUTES**

The minutes of the meeting held on 25 September 2012 were confirmed and signed by the Chair as a true record, subject to the removal of the name of Councillor Malpas in the list of those present and moving the words "Councillor Hill took the Chair" from under apologies to under those present.

### **3. DEPUTATIONS / PUBLIC ADDRESSES**

Messrs H Shah, K Willsher, M Jadoon, J Hills, P Bruere and S Ward were granted leave to address the Committee in respect of item 6 – Hackney Carriage and Private Hire vehicles Conditions Including Testing Criteria. Mr S Willsher was granted leave to address the Committee in respect of item 7 – Review of Hackney and Private Hire Fees.

### **4. DECLARATIONS OF INTEREST**

There were none.

### **5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED**

There were none.

### **6. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES CONDITIONS INCLUDING TESTING CRITERIA**

The Senior Licensing Officer presented a report on the proposed amended Taxi and Private Hire Conditions and Vehicle Testing Arrangements. The Committee on 8 May 2012, having considered consultation results and the research undertaken, had resolved not to introduce age limits on Hackney Carriages and Private Hire Vehicles and to remove the existing three year lower age limit on Hackney Carriages, pending the introduction of conditions to ensure a good standard of Hackney Carriage and Private Hire Vehicles is maintained in the town. A Working Party had been established, with trade representatives as members, to work towards developing these conditions. There had been agreement on the majority of issues in the proposed conditions, although there were a small number of areas where agreement had not been reached with the trade representatives. Representations received after the proposed conditions had been circulated to the trade were appended to the report for Members' consideration.

The proposed conditions were appended to the report and it was estimated that, if agreed, they would commence on 1 April 2013.

Mr K Willsher (trade representative on the Working Party) addressed the Committee. He referred to the 1.6mm for tyre tread and 1.5mm for brake wear recommended in the DfT and Technical Officer Group Report (TOGR) for Hackney Carriages and Private Hire Vehicles,

whilst officers were recommending 2mm in each case. He stated that he had provided mileage figures of 30-40K miles per year for Hackney Carriage and Private Hire Vehicles and that national guidelines were for one MOT test per year for low mileages, which he suggested these were. He stated that there would be difficulties if either of the Council's MOT testing stations were out of action, say through flooding, and drivers had to use other stations since the conditions imposed more stringent measures than were legally required. He also stated that inspections of tyre tread and brake wear were inspected visually and were not actually tested.

The Senior Licensing Officer stated that the mileages of Hackney Carriage and Private Hire Vehicles had been shown in the research undertaken by him to be higher than those suggested by the trade representatives.

Mr M Jadoon (trade representative on the Working Party) addressed the Committee. He stated that the most vulnerable people in society tended to use taxis and those who could not afford to buy and run a car of their own. Increasing the costs to taxi drivers through changing conditions would affect taxi users. He stated that the national guidelines and conditions should be used rather than creating conditions for Northampton as they were based on a better understanding of the overall situation and they did not recommend 2 MOT tests per year based on the mileages the trade representatives stated were being driven by Hackney Carriage and Private Hire Vehicles in Northampton.

The Chair stated that the Committee had agreed on 8 May 2012 that the 2 MOT tests should remain. If there was substantial evidence to support one MOT only per year that could be presented to the Committee as a separate matter but no such evidence had been provided.

Mr J Hills (Secretary of the Northampton Hackney Carriage Drivers Association) addressed the Committee. He stated that as Secretary of the Hackney Carriage Association he believed he should have been a member of the Working Party, along with the Association's Chairman. He stated that he had previously spoken strongly about the abolition of the three year rule age limit on for Hackney Carriage on first plating and that this would lead to an influx of large numbers of low quality vehicles in the town. He referred to the lengthy financial obligations many drivers had in purchasing vehicles, particularly in the current economic climate, and how they would be adversely affected by this influx. He circulated a paper suggesting a compromise proposal that if the three year rule were to be abolished this should be phased in over a five year period to ease hardships on existing drivers and asked that this be considered by the Committee. He spoke of the impact the significant reduction in Hackney Carriage rank spaces at the railway station when works commenced there in January 2013 would have on drivers' livelihoods. He also referred to poor communication with officers of the Council and suggested that the Working Party's agenda should have been set by the trade representatives, rather than officers.

The Senior Licensing Officer stated that he had no evidence that removing the three year age limit would significantly increase the number of older Hackney Carriages in Northampton as the vehicles would all be subject to the MOTs and Council Inspections and Hackney Carriage drivers would have to pass Hackney Carriage Driving Tests.

Mr P Bruere (Chairman of the Northampton Hackney Carriage Drivers Association) addressed the Committee. He stated that removing the three year rule would lead to an influx of low quality vehicles into Northampton as drivers would purchase older, less expensive vehicles. He stated that the abolition proposals had never had a fair hearing. He had asked for a copy of the notes of the Committee meeting on 8 May 2012 which had considered the issue to compare against the minutes of the meeting but had not received them. He stated that there had been no transparency and that a note had been placed on

the Council's website after the 8 May 2012 meeting stating that the three year rule had been abolished. He stated that he had spoken to the officers and said they had amended the message.

The Chair stated that there had been an opportunity for anyone who disagreed with the minutes of the meeting on 8 May 2012 to raise issues at the following meeting but no one had done so.

The Senior Licensing Officer stated that after Mr Bruere had contacted him he had amended the message on the Council's website to clarify that the rule year rule was being removed pending the introduction of vehicle conditions and testing. He clarified that it was not he who inputted the information onto the website.

Mr S Ward addressed the Committee. He was satisfied with the broad sweep of the proposals but would have liked to see an upper age limit on Hackney Carriages and Private Hire Vehicles. He drew attention to some minor inconsistencies between the conditions booklet and the guidelines, particularly in relation to the size of fire extinguishers and roof signs and a number of similar issues.

The Senior Licensing Officer undertook to meet Mr Ward to resolve the inconsistencies in the documentation.

Mr H Shah (trade representative on the Woking Party) then addressed the Committee. He referred to his letter of 23 November 2012 which was appended to the agenda. He stated that the current standards in Northampton were higher than the national guidelines and that the proposals would raise them still higher. He referred to the Department of Transport's Best Practice Guidance which warned that too restrictive an approach could work against the public interest and have safety implications. The officers had not researched this area. He stated that the mileage figures provided by the officers were flawed, as set out in his letter. He suggested that officers should have examined if there had been any complaints from members of the public regarding Hackney Carriages and Private Hire Vehicles. He stated that there was no evidence of a problem and that the Council needed good reasons to diverge from the Best Practice Guidance. He stated that he had not been instructed to look at the proposed age limits but that strong feelings had been raised about them. There was a need to look at the proposed conditions and the intention in seeking to introduce them.

The Senior Licensing Officer stated that the Council's intention in introducing the proposed conditions was to maintain the Standards of Hackney Carriages and Private Hire Vehicles in Northampton. The MOT failures indicated a high failure rate, which was based on the condition of vehicles rather than their age. This was why the Committee had decided on 8 May 2012 that there was no need to introduce an age limit on vehicles. Many other local authorities operated a system of 2 MOTs per year for Hackney Carriages and Private Hire Vehicles. He was not aware of any reason why the mileage figures he had supplied to the Committee could be regarded as flawed.

The Committee considered that legal and technical advice should be sought on the issues raised by the public speakers. It was agreed that there should be a short adjournment and the Committee would reconvene in private session to receive that advice.

**The Chair moved that the public and press be excluded from the meeting on the grounds that there would be disclosure to them of exempt information as defined by section 100(1) of the Local Government Act 1972 by reference to Paragraph 3of Schedule 12A to such Act. The motion was carried.**

The Committee took technical advice from the Senior Licensing Officers, who then left the room. The Solicitor then provided legal advice to the Committee.

**The Committee then resumed in public session.**

The Chair then explained that the Senior Licensing officers had remained in the room to provide technical advice to members and then left the room. The Solicitor had remained present throughout to provide legal advice to Members.

The Committee considered that the three year age limit on Hackney Carriages should be abolished, as resolved on 8 May 2012, but that the comments raised by Messrs Hill and Bruere, regarding a phased abolition, should be taken into account, in particular the hardship caused to those committed to five year finance plans, and the abolition be phased in over a three year period.

Members stated that their paramount interest was public safety and that the 2 MOT test per year should be retained and the 2mm limits for tyre tread and brake wear. They asked the officers to discuss with Mr Ward the inconsistencies in the documentation which he had referred to in his address.

It was noted that the new conditions would take effect on 1 April 2013 (but then agreed 1 January 2013), following consultations with the 2 MOT testing stations, and that the abolition of the age limit and a number of other decisions made by the Committee on 8 May 2012, which had been pending the introduction of the new conditions, would come into effect when the conditions were implemented.

The Committee thanked all parties who had attended the Working Party and tonight's meeting. It was agreed that a communication on the Committee's decision tonight would be sent to operators for information.

**RESOLVED:**

1. That the abolition of the three year age limit for new Hackney Carriages to be introduced in Northampton be phased in over a three year period, taking into account the comments made to the meeting by Mr Hills and Mr Bruere. These should be as follows:
  - a. Until December 31 2013 all first plated Hackney Carriages must be less than 3 years old;
  - b. Between January 1 2014 and December 31 2014 all first plated Hackney Carriages must be less than 4 years old;
  - c. Between January 1 2015 and December 31 2015 all first plated Hackney Carriages must be less than 5 years old;
  - d. That there be no lower age limit for Hackney Carriage Vehicles from 1 January 2016.
2. That the amended Taxi and Private Hire Conditions be adopted and the Vehicle Testing Standards, both as set out in the report, be approved, including maintaining two scheduled vehicle tests per year.
3. That the resolutions made by the Committee on 8 May 2012, as set out below, are implemented from 1 January 2013:

- a. That there be no age limit imposed on Private Hire Vehicles and there be a removal of age limits on Hackney Carriages (as amended at resolution 1 above);
- b. That engine capacity restrictions be removed;
- c. That the current requirement for 2 MOT tests per year be maintained;
- d. That newly registered vehicles at the DVLA that are subsequently licensed operate for a full 12 months without the requirement to be routinely tested following their initial plating.

## **7. REVIEW OF HACKNEY AND PRIVATE HIRE FEES**

The Senior Licensing Officer presented a report recommending that consultations take place to review the Council's licence fees applicable to Hackney Vehicles and Drivers and Private Hire Operators, Vehicles and Drivers. It was noted that although there was a legal requirement to advertise a change in some of the fees there was no legal requirement to consult. Any objections would be considered before a decision was taken regarding any increases.

The Committee on 4 November 2008 and Cabinet on 20 May 2009 had resolved that Hackney carriage and private hire licence fees should be increased with effect from 1 June 2009 to their current level and they had not been increased since that date, although administration and other Council costs had increased during that time. The process for the revision of Hackney/Private Hire fees is set out in legislation and allows local authorities to set fees intended to recover their reasonable costs but not to charge fees intended to make a profit.

Mr S Willsher addressed the Committee, stating that the proposed fees were not uniform and that the percentage increases varied considerably from a minimum of 7% to many at 33% and 50%. He stated that the increases were unfair and should be reduced, either no increase or a maximum of 5%, and should be uniformly applied. There had been no increase in Hackney Carriage fares since 2008 and if they were to be increased in May 2013 this would be for the first time in five years.

Members noted that the purpose of the report was to agree to consultation on the proposed fees and that the proposals would be looked at closely in relation to consultation responses which were received.

Mr H Shah addressed the Committee at the Chair's discretion and asked why this issue had not been considered by the Working Party at the time they had considered the Hackney Carriage and Private Hire testing criteria as this would also affect drivers' livelihoods.

In response it was stated that the two issues were covered by different legislation and the consultation periods could not be run together as they had different timescales. The issue of licence fees was also beyond the scope of a Working Party and any objections would have to be considered by the Committee itself. Any increases would be based on the recovery of costs, not on making a profit.

Mr M Jadoon addressed the Committee at the Chair's discretion and spoke of the importance of the DfT guidelines and Office of Fair Trading guidance plus the Law Commission inquiry into licensing which was currently underway.

The Chair ruled that Mr Jadoon's comments were not relevant to this item and related to the

report covered at item 6 above.

It was noted that the results of any consultation would be reported to the additional meeting of the Committee it was proposed to hold on 11 February 2013 (minute 11 below refers).

**RESOLVED:**

1. That, subject to the results of the consultation, with effect from 1 April 2013 the proposed above fees be revised in line with the recommendations at Appendix A to the report.
2. That the proposed increase is advertised in the local press in line with the legal requirements.
3. That consultation should take place with those who are subject to the increase, even though there is no legal requirement to do so, and that any objections should be considered before any increase is implemented.

**8. REVIEW OF STREET COLLECTIONS POLICY**

The Senior Licensing Officer presented a report recommending that the Council's Street and House to House Collections Conditions be revised in line with the new Charities Act 2011, which replaced the existing four Acts covering this area. The current regulations would be retained pending the change in regulations to be introduced under legislation at a later date. "Exempt Charities" (those not requiring a local authority to hold a collection) would not be affected by the new Act.

In answer to a Member's question, the Senior Licensing officer stated that the amended Council regulations stated that charities should be local or reflect a local need to be issued with a permit.

**RESOLVED:**

That with effect from 11 December 2012 the Council's Street and House to House Collections Conditions be revised in line with the new Charities Act 2011.

**9. STREET TRADING FEES AND CONSENTS**

The Senior Licensing Officer presented a report in relation to the current Street Trading position and requesting that consultation take place on proposals to increase fees and to create Standard, Premium and Town Centre categories as set out in the report. Recommendations arising from the consultation would be considered by the Committee and then reported to full Council for consideration.

Concern was expressed by some members regarding any increases in fees in the current economic climate, particularly when fees had been reduced for market traders. The Senior Licensing Officer stated that fees for street traders had not been increased since regulation had commenced in 2003 and were significantly less than those for market traders. Comments were made by members that trading on the market should be encouraged.

A Member expressed concerns about illegal street traders in the town and asked that officers liaise with Trading Standards on this issue.

**RESOLVED:**

That with immediate effect consultation be undertaken to:-

- (i) Approve the proposed increases in Street Trading fees for inclusion in the draft

- consultation budget and in accordance with Appendix A of the report.
- (ii) Approve consultation on the proposed amendments to include Street Trading pitches located within the town centre and parks and in accordance with Appendix A of the report.
  - (iii) Approve a consultation for the proposed three tier structure of the fees, to include a Standard, Premium and Town Centre category and in accordance with Appendix A of the report.

## **10. STATEMENT OF GAMBLING PRINCIPLES 2012 - 15**

The Senior Licensing Officer presented the proposed Statement of Gambling Principles 2012-15 for all local authorities in Northamptonshire. The last statement, which was a statutory requirement, had come into effect on 31 January 2010 and would expire on 30 January 2013, with the new statement coming into effect on the following day. Consultation on the proposed statement had been undertaken, as set out in the report.

It was noted that the Statement of gambling principles 2012-15 would be reported to Council on 19 January 2013 for approval.

In answer to a Member's question, the Senior Licensing Officer stated that local authorities have a duty to inspect premises with gambling machines at least annually. In Northampton premises were inspected approximately six times a year in the town centre, and more frequently if complaints had been received.

### **RESOLVED:**

That the report be noted.

## **11. ADDITIONAL MEETING OF THE COMMITTEE**

As the Committee was not scheduled to meet again after this meeting until 19 March 2013, and there was likely to be business which would need to be considered during that period, Members were requested to consider setting a date for an extra meeting of the Committee, on Monday 11 February 2013 at 6.00pm. The Chair had been consulted on the choice of date prior to the meeting and Members had received notification before the meeting of the intention to hold an extra meeting of the Committee on that date.

It was noted that the results of the two consultations agreed at minutes 7 and 9 above would be reported to this meeting.

### **RESOLVED:**

That an extra meeting of the Committee be held on Monday 11 February 2013 at 6.00pm.

The meeting concluded at 8:38 pm