





Brighton & Hove
City Council

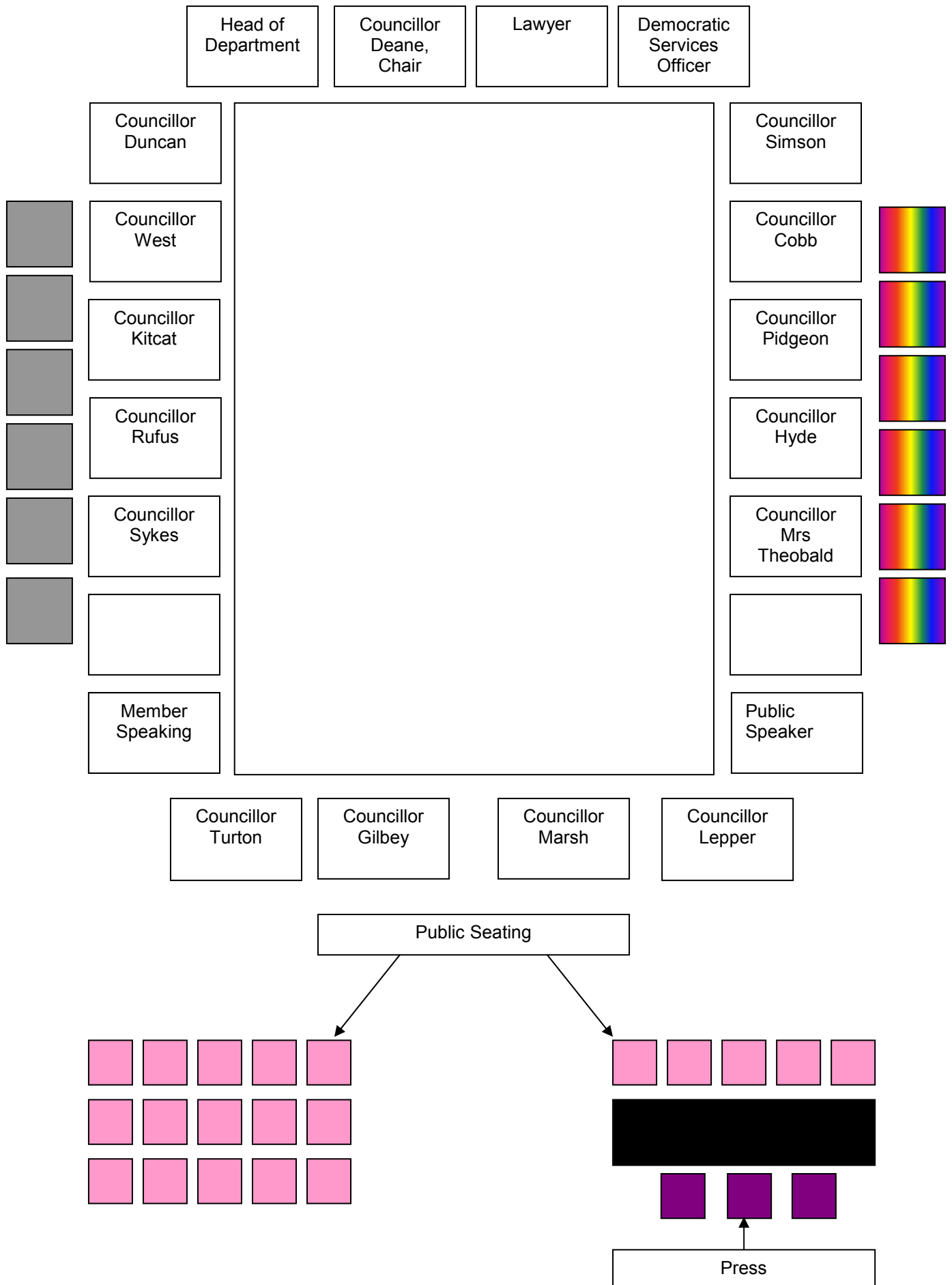
Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	Licensing Committee (Non Licensing Act 2003 Functions)
Date:	8 March 2012
Time:	3.30pm or at the conclusion of the preceding (Licensing Act 2003 Functions) meeting
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Deane (Chair), Sykes (Deputy Chair), Cobb, Duncan, Gilbey, Hyde, A Kitcat, Lepper, Marsh, Pidgeon, Rufus, Simson, C Theobald, Turton and West
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

25. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

26. MINUTES OF THE PREVIOUS MEETING

1 - 6

Minutes of the meeting held on 17 November 2011 (copy attached)

27. CHAIRMAN'S COMMUNICATIONS

28. CALLOVER

NOTE: Public Questions will be reserved automatically.

29. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 1 March 2012)

29A.PETITIONS

To consider any petitions received.

The deadline for notification of petitions is 12 Noon on 1 March 2012 .It is anticipated that a paper petition will be presented at the Committee meeting on 8 `March 2012.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

30. EXTRACT FROM ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE MEETING:TAXI LICENSING 7 - 8

Extract from the minutes of the meeting held on 23 January 2012 (copy attached)

31. EQUALITIES ACTION PLAN UPDATE 9 - 26

Report of the Head of Planning and Public Protection (copy attached)

Contact Officer: *Martin Seymour* Tel: 296659
Ward Affected: *All Wards*

32. ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to the 22 March 2012 Council meeting for information.

In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 12 March 2012.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065), email penny.jennings@brighton-hove.gov.uk or email democratic.services@brighton-hove.gov.uk

Date of Publication - Wednesday, 29 February 2012

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 26

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.30PM 17 NOVEMBER 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Deane (Chair), Sykes (Deputy Chair), Cobb, Duncan, Gilbey, Hyde, J Kitcat, Lepper, Marsh, Rufus, Simson, C Theobald and West

Apologies: Councillors Turton

PART ONE

11. PROCEDURAL BUSINESS

11a Declaration of Substitutes

11.1 Councillor J. Kitcat declared that he was substituting for Councillor A. Kitcat.

11b Declarations of Interest

11.2 There were none.

11c Exclusion of the Press and Public

11.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that 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 press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

11.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of the items on the agenda.

12. MINUTES OF THE PREVIOUS MEETING

- 12.1 **RESOLVED** – That the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on 23rd June 2011, be agreed and signed as a correct record of the proceedings.

13. CHAIR'S COMMUNICATIONS

Revocations and Suspensions

- 13.1 The Chair reported that since the last meeting of the committee, officers in the Hackney Carriage Office had revoked 1 licence and suspended 3 licences and 3 drivers.

14. PUBLIC QUESTIONS

- 14.1 The Chair noted that no public questions had been submitted.

15. LICENCE FEES 2012/13

- 15.1 The Head of Environmental Health and Licensing introduced the report and stated that he was aware of the difficulties in setting licence fees in a fair and transparent way and noted that last year the council had given a commitment to the taxi trade and trade unions to endeavour to set the fees at a fair level. The proposed taxi fees had been reported to the Taxi Forum and others would need to be advertised and consulted on before being implemented. He also noted that it was not intended to increase the fees for sex establishments.

- 15.2 Councillor J. Kitcat welcomed the report and commented on the level of detail and transparency of the fee setting process and thanked the officers involved for their work.

- 15.3 Councillors Duncan and Simson also welcomed the report and expressed their support for Councillor Kitcat's comments.

15.4 RESOLVED:

- (1) That taxi licence fees: Hackney Carriage Vehicles be reduced by 1%, Hackney Carriage Drivers be increased by 4%, Private Hire Vehicles be reduced by 3% and Private Hire Drivers be increased by 2%;
- (2) That Street Trading licence fees be increased by 1%;
- (3) That Sex Shops, and Sex Cinemas licence fees be increased by 3%;
- (4) That Other discretionary licence fees be increased by 4%;
- (5) That no increase be applied to Gambling Licensing licence fees; and
- (6) That no increase be applied to Sex Entertainment Venues licence fees.

16. ADDITIONS TO THE BLUE HANDBOOK FOR HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS

16.1 The Hackney Carriage Officer introduced the report and noted that revised handbook had been agreed in June, but further changes had been requested by the Fed Centre which officers were happy to include should the Committee be minded to accept them.

16.2 **RESOLVED:** That the additions to the handbook contained in appendix 1 to the report be accepted and added to the appropriate sections of the handbook before it is printed and distributed.

17. TERMS OF REFERENCE AND CONSTITUTION FOR THE BRIGHTON & HOVE HACKNEY CARRIAGE AND PRIVATE HIRE CONSULTATION FORUM

17.1 The Hackney Carriage Officer introduced the report and stated that the updated terms of reference and constitution for the Brighton & Hove Hackney Carriage and Private Hire Consultation Forum was being presented to the Committee for confirmation.

17.2 The Committee noted that a working group had been established to review the constitution and officers had been involved in the process and worked with the group to bring it forward.

17.3 **RESOLVED:** That the amended Terms of Reference and Constitution for the Brighton & Hove Hackney Carriage and Private Hire Consultation Forum as detailed in appendix 1 to the report be approved.

18. HACKNEY CARRIAGE UNMET DEMAND SURVEY AND CONSULTATION ON WHEELCHAIR ACCESSIBLE VEHICLE PROVISION

18.1 The Hackney Carriage Officer introduced the report and noted that the hackney carriage unmet demand survey was due to be undertaken during 2012 and that the Committee was asked to confirm the restricted numbers policy for hackney carriage vehicles, with managed growth of five additional WAV plates issued annually to wheelchair accessible vehicles.

18.2 Councillor Simson asked how many people were on the waiting list.

18.3 The Hackney Carriage Officer confirmed that approximately 120 people were on the current waiting list.

18.4 Members of the Committee expressed their concern over the possibility of the unmet demand survey raising expectations that more plates would be made available and the potential impact on the livelihoods of those with plates. However, it was also felt that the process of managed growth was the best way of maintaining the situation and that the restricted numbers policy should be kept in place despite being criticised by government and others.

18.5 **RESOLVED:**

- (1) That the restricted numbers policy for hackney carriage vehicles with managed growth of five additional WAV plates issued annually to wheelchair accessible vehicles be endorsed, and subject to review following the consultant's report on the unmet demand survey; and
- (2) That any report should compare current policies and provision with other similar authorities in England to provide evidence in relation to the perceived or actual problem of availability of wheelchair accessible vehicles and consultation with local stakeholders.

19. HACKNEY CARRIAGE/PRIVATE HIRE TRADE:ETHNICITY MONITORING

- 19.1 The Hackney Carriage Officer introduced the report which detailed the results of ethnicity monitoring of Hackney Carriage / Private Hire Trade for 2010/11.
- 19.2 **RESOLVED:** That the report be noted.

20. EQUALITIES ACTION PLAN UPDATE

- 20.1 The Licensing Manager introduced the report which detailed the progress to date in respect of the Equalities Action Plan.
- 20.2 **RESOLVED:** That the report be noted.

21. ADVERTISING ON HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

- 21.1 The Hackney Carriage Officer introduced the report and stated that the taxi trade had approached officers with the request to allow advertising on the rear wings of vehicles as a means of generating additional income for owners of the vehicles.
- 21.2 Members of the Committee welcomed the proposal and acknowledged the need to look at ways of enabling drivers to meet their income targets. It was also suggested that reference should be made to a recent report to the Cabinet on sponsorship and advertising to ensure that should vehicles be granted permission to have adverts that they do not contravene any requirements that have been approved.
- 21.3 Members of the Committee also asked that the report be made available to all Members for information.
- 21.4 **RESOLVED:**
- (1) That advertising may be displayed on the rear wings (as decided by the Head of Planning & Public Protection) of Hackney Carriage and Private Hire Vehicles, provided that the vehicle is not exempt from displaying the Council's livery and any advertisement displayed conforms to the council's guidance for licensed vehicles; and
 - (2) That delegated authority be granted to the Head of Planning & Public Protection to vary the standard Hackney Carriage Licence conditions to allow advertising in accordance with paragraph 2.1 above.

22. ITEMS TO GO FORWARD TO COUNCIL

22.1 No items were referred to Council.

The meeting concluded at 6.35pm

Signed

Chair

Dated this

day of

LICENSING COMMITTEE (NON LICENSING ACT 2003 COMMITTEE FUNCTIONS)

Agenda Item 30

Brighton & Hove City Council

EXTRACT FROM DRAFT ENVIRONMENT & COMMUNITY SAFETY OVERVIEW & SCRUTINY COMMITTEE 23 JANUARY 2012

Present: Councillors Morgan (Chair); Sykes (Deputy Chair), Cobb, Gilbey, Hawtree, Janio Jones and Deane

PART ONE

34. PROCEDURAL BUSINESS

34a Declarations of Substitutes

Councillor Deane was substituting for Councillor Littman.

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38. TAXI LICENSING AND THE HACKNEY CARRIAGE OFFICE

38.1 The Head of Regulatory Services Tim Nichols introduced the report on Taxi Licensing and the Hackney Carriage Office.

38.2 Regulation of Taxis was largely out of date and the government would be consulting on draft legislation this year, with a draft Bill expected in late 2013. Some key provisions of the Equality Act 2010 such as taxi access and control of taxi numbers did not yet have commencement dates.

38.3 There had been significant developments since the request for scrutiny was considered by ECSOSC in September. Licensing Committee in November had: reviewed the terms of reference of the Taxi Forum (the Fed Centre for Independent Living was a formal member of the Forum); agreed additions to the Blue Book, that gave guidance to drivers on providing services to people with disabilities, copies of which were available to Councillors on request.; and commissioned a survey of taxi provision compared with other authorities. There was now a 'shadow' list of designated wheelchair-accessible vehicles (WAVs) and officers were trying to achieve the right proportion of WAVs, he said.

38.4 Chair of Licensing Committee Councillor Lizzie Deane highlighted some of the challenges around gaps in the law and explained that drivers are self employed. She told the Committee that the Taxi Forum held regular meetings that were well attended and its Members included drivers, union reps and the Fed Centre for Independent Living. She said there was a lot of goodwill to work well in partnership.

38.5 Councillor Deane, the Head of Regulatory Services and the Hackney Carriage Officer answered questions on the Local Government Ombudsman 2011 decision not to investigate a

complaint; how WAVs are designated and allocated (in view of a wide range of saloons and other vehicles, plus a wide range of disabilities); longer waiting times for users of WAVs; the role of the taxi driver in handling wheelchairs; driver training, especially covering the change from saloon to WAV; and estimating the level and proportion of use of accessible taxis.

38.6 Regarding risk assessments, drivers are self-employed and have a duty to operate safely. Training is provided by two local providers, the meeting heard.

38.7 Geraldine Des Moulins of the Federation of Disabled People said there were concerns about the types of accessible vehicles, and the voice of the FDP had been 'drowned' for years. There were difficulties for disabled people in accessing taxis in some out of town areas and at some times of day eg during school runs. There should be more consultation with stakeholders; more benchmarking; better information on numbers of drivers trained and on the content of learning modules to ensure safe transfer and travelling, she said.

38.8 Geraldine Des Moulins said other local authorities provided better taxi services for disabled people despite the legal situation so research on best practice elsewhere would be invaluable to be applied in Brighton & Hove, she said. Asked about positive experience from elsewhere, Geraldine Des Moulins gave Bath and London as examples.

38.9 Councillor Cobb said there had been a lot of consultation and the Taxi Forum worked well. Driver training and equalities work was continuing and officers worked pro-actively.

38.10 After further discussion and a vote Members did not agree to a scrutiny review.

38.11 **RESOLVED:** That the matter be submitted to the Licensing Committee to continue to develop taxi licensing policy to improve services for disabled passengers.

LICENSING COMMITTEE (NON LICENSING ACT 20003 FUNCTIONS)

Agenda Item 31

Brighton & Hove City Council

Subject:	Equalities Action Plan Update Report		
Date of Meeting:	8 March 2012		
Report of:	Head of Planning and Public Protection		
Contact Officer:	Name:	Martin Seymour	Tel: 29- 6659
	Email:	martin.seymour@brighton-hove.gov.uk	
Ward(s) affected:	All		

1. SUMMARY AND POLICY CONTEXT:

1.1 To report on the progress of the Equalities Action Plan.

2. RECOMMENDATIONS:

2.1 That Committee endorses progress made and considers future action to concentrate on the Significant Unmet Demand Survey.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 On 10 September 2010, a report on the Equalities Review was taken to Licensing Committee. An action plan was developed from that report.

3.2 The action plan has been developed and updated and the current version can be found at appendix 1.

3.3 Since this report was approved by committee the Governments Transport Committee published its Seventh Special Report which included recommendations to amend Hackney Carriage and Private Hire legislation (The Road to Reform). The Governments response to this report can be seen at appendix 2. At the same time the Law Commission announced that it was also looking at updating taxis and private hire legislation. A summary of the changes being looked at by the Law commission can be found at appendix 3.

3.4 The Law Commission confirmed at a meeting on 12 October 2011 that they will publish a consultation paper in April 2012 with a 3 month public consultation May - July. The Draft Bill & report will be published in November 2013.

The Transport Minister confirmed that the Government were not going to implement section 160 of the Equality Act (taxis accessibility regulations). They are still looking at an implementation strategy for S165-167. The cost benefit of the power to limit hackney carriage numbers is still under consideration. This may impact on imposing prescribed percentages of accessible vehicles.

Appendix 4 contains an extract from Hansard (16 May 2011) giving a written response from The Minister regarding the implementation of the taxis accessibility regulations.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 This matter has been discussed at the Taxi Forum.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications for the council associated with the recommendation made in this report. Taxi licensing fees are set at a level that it is reasonably expected will cover the costs of providing the service.

Finance Officer Consulted: Karen Brookshaw

Date: 23/01/12

5.2 Legal Implications:

The Disability Discrimination Act 2005 (DDA) placed a legal duty on all public sector organisations to promote equality of opportunity for disabled people. It required authorities to review any practices, policies and procedures that disadvantage disabled people. The Equalities Action Plan was developed and adopted in pursuance of these obligations. Although the DDA has now been repealed these obligations are re-stated in the Equality Act 2010.

The Equality Act 2010 also includes a number of specific provisions relating to taxi accessibility. They include a power for the Secretary of State to make taxi accessibility regulations, and a prohibition on licensing authorities refusing new licenses for wheelchair accessible vehicles if the number of such vehicles in their area does not meet a specified level. If enacted this would affect the Council's current policy of restricting the number of hackney carriages under Section 16 of the Transport Act 1985. However, these provisions are largely not yet in force, and no date has been set.

The Government has recently asked the Law Commission to undertake a comprehensive review of taxi and private hire vehicle legislation. The Government's plans for introducing draft legislation arising from the Law Commission's review are still subject to consideration.

Lawyer Consulted Louise Hanrahan Date: 07/02/2012

5.3 Equalities Implications:

Recommendations are designed to promote equality of opportunity, eliminate unlawful discrimination, promote participation in public life and meet the needs of disabled people. Improving access to taxis/Private Hire Vehicles (PHVs) is a priority action in the council's Equality Scheme. Improving access to services by public transport is included in the Local Area Agreement.

5.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. Improving accessibility is one of the government's four shared transport priorities. Increasing the age limits of taxis will adversely affect air quality.

5.5 Crime & Disorder Implications:

Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

5.6 Risk and Opportunity Management Implications:

The transport industry should be safe, profitable and be a positive experience for all residents and visitors

5.7 Public Health Implications:

Providing a range of transport options for all passengers improves physical, mental and social wellbeing.

5.8 Corporate / Citywide Implications:

Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 N/A.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 To update Licensing Committee.

SUPPORTING DOCUMENTATION

Appendices:

1. Equality Act Action Plan Update.

Documents in Members' Rooms

1. None

Background Documents

1. None

Updated action plan from Committee report recommendations September 10

Date & Number	Recommendation	Agreed action
10/09/10 1	That the committee notes the position regarding the Equality Act 2010 and its possible implications.	Complete.
2	That the committee notes the current BTEC qualification will not be available to new applicants after 30 th September 2010 and approves the replacement entry-level qualification for new drivers.	Complete.
3	That the HCO, working in partnership with The Fed Centre for Independent Living and other stakeholders, develop the framework for a Certificate of Professional Competence, research providers, and report with firm proposals by the end of March 2011.	Please see 2 above. There is a need to establish the baseline of equalities training and consider how to ensure continuing professional development. Once established, a condition of licence could be imposed. There has been difficulty identifying an accredited provider. However, The Hackney Carriage Office has identified a provider for a disability awareness course but the three taxi operators agreed to develop their own scheme at taxi forum on 17 June 2011. More recently one of the operators has arranged for all its drivers to undertake the Btec and have offered this option to others not on their circuit. It is believed that over 300 drivers have now completed the Btec.
4	That the HCO implement changes and improvements to the current complaints process to ensure that it is accessible and that all complainants are provided with clear, detailed responses.	Complete
5	That the Committee approve the maximum age limit for a WAV, be	Complete

	increased from 10 to 12 years, subject to it passing two vehicle tests per year, and that the Existing Conditions are amended accordingly with the rider 'all vehicles over ten years old shall be required to pass two vehicle inspections each year' be added.	
5A	That the Committee approve the removal of the maximum age limit for newly licensed vehicles, subject to the maximum age limit appropriate to that vehicle.	Complete.
6	Withdrawn	N/A
7	That the views and evidence provided by all contributing parties to this report be brought to the attention of officers dealing with the school transport contracts.	Complete.
8	That the Committee approve all new hackney carriage vehicle licences and licences which are renewed following a transfer should conform to the Conditions of Fitness as prescribed by the Public Carriage Office (ie purpose built London type hackney carriage vehicles) or be for wheelchair accessible vehicles with M1 ECWVTA.	Officers are aware of 17 transfers that have resulted in new WAVs in the fleet. Taxi licensing is migrating to a corporate software system which should allow transparent reporting of data. Absolute numbers of WAVs stand currently at 148 and increasing. There are another 11 that need to become WAV at next renewal which will take us to 29% and with the 5 extra in May will make 30%.
8A	That the Committee approves the licensing of rear loading M1 ECWVTA WAVs.	Complete
8B	That the Committee approves the immediate release of five new hackney carriage vehicle licenses.	Complete
9	That the Committee approves that CCTV approved by the Director is installed in all vehicles (a) upon application for a new vehicle licence on or after 1	Complete. CCTV is expected to be phased in during 2012/13 by licence condition.

	April 2012, or (b) on annual renewal of a vehicle licence falling between 1 April 2012 and 31 March 2013	
10	That the Committee approve a pilot scheme initially for one-year, to publish contact details of WAV drivers prepared to take bookings, and where an operator's licence is required for a single vehicle, that operator's licence is provided free of charge.	Complete
11	That the Committee note the promotion of accessible taxi/PHV services to taxi voucher recipients in January 2011.	Complete.
12	That the Committee note the proposal to support National Customer Service week by promoting WAVs and demonstrating access features of vehicles.	Complete
13	That the Committee supports in principle a Star Rating for operators, the detail to be developed by the HCO in partnership with the Federation of Disabled People.	Preliminary work has been undertaken by discussion in taxi forum. This action may not be possible due to trade reservations. There are concerns over transparency and objectivity (criteria for awards).
14	That the Committee ask The Fed Centre for Independent Living to make a detailed proposal as to how they would envisage undertaking 'mystery shopping' setting out any costs that might be incurred.	The Fed Centre for Independent Living to investigate.
15	That the Committee require 'Right to Work' checks carried out on application for drivers' licences.	Complete.
16	That the Committee approve in principle, interior seat advertising in licensed WAVs.	Complete.
13/05/11 New 17	Equalities Act 2010 preparation for a list of designated vehicles. New offences are created concerning failure to pick up, failure to carry safety and overcharging.	Complete.

New 18	Taxi forum terms of reference.	Complete – agreed at committee
05/07/11 New 19	Blue Book to include DfT advice on EA2010.	Complete – agreed at committee.
New 20	Blue Book to include list of designated vehicles.	Complete – agreed at committee
New 21	Use TfL guidance to use as consultation base set for WAV specification locally.	TfL guidance is used as consultation basis. Complete. The Equalities Action Plan was reported to committee on 17 November 2011. EA S160 has been identified via Transport Minister for non-implementation. Taxi accessibility regulations are not expected. This may affect specifying accessible vehicles. Licensing Authority current position is to allow any vehicles meeting M1 crash criteria and general public safety.
New 22	Record Certificate of Competence on driver records.	BTec includes training which would update competency. Awaiting ICT delivery with migration to new software.
New 23	Trawl for funding for training.	None available to local authorities.
New 24	Circulate Bracknell's and Streamline's advice to Forum for comments. This advice is aimed at safe transport of passengers including disabled passengers.	Complete.

16 May 2011 : Column 1W

Written Answers to Questions

Monday 16 May 2011

Taxis: Disability

Caroline Lucas: To ask the Secretary of State for Transport when he expects the provisions of the Equality Act 2010 relating to taxis, private hire vehicles and accessibility for disabled persons and assistance dogs to be implemented; and when he expects to launch his Department's consultation on the proportion of wheelchair accessible vehicles per local fleet that must be met before a licensing authority can refuse to grant a licence for a wheelchair accessible vehicle for the purpose of controlling taxi numbers. [53060]

Norman Baker [*holding answer 28 April 2011*]: The sections of the Equality Act 2010 which place duties on taxi and private hire vehicle (PHV) drivers to carry assistance dogs came into force in October 2010.

Section 166, which allows taxi and PHV drivers to be exempt from the duties to assist passengers in wheelchairs for medical reasons, or under certain defined conditions, also came into force in October 2010.

We are currently considering the commencement strategy for sections 165 and 167 which deal with the imposition of the duties on taxi and PHV drivers to assist passengers in wheelchairs. We are also considering the commencement strategy for section 161 which qualifies local authorities' power to control taxi numbers. We will consult before making any regulations under this section, but we have not yet set a timetable for doing so.

The Department has no immediate plans to implement those sections of the Equality Act which are associated with a requirement for all taxis to meet certain accessibility standards.

Taxis and private hire vehicles: the road to reform: Government Response to the Committee's Seventh Report of Session 2010-12 - Transport Committee [Contents](#) (Published July 2011)

Government Response

Introduction

The Government is grateful to the Transport Committee for undertaking an inquiry into taxis and private hire vehicles (PHVs). The Committee's report provides a helpful analysis of the issues and it demonstrates just how complex those issues can be—and how widely opinion varies about the best way of moving forward.

The Government has now considered the Transport Committee's Report and specifically its 14 recommendations a response to each is given in this publication.

Coincidentally, on the same day that the Committee published its report, the Law Commission announced that, as part of its Eleventh Programme of Law Reform, it intends to undertake a comprehensive review of taxi and private hire vehicle legislation.

So whilst the Government notes the Committee's recommendation that the Department for Transport should undertake an in-house review rather than handing over the issue to the Law Commission, the Law Commission is now undertaking a review. The Minister, Norman Baker, indicated on 15 March 2011 whilst giving oral evidence that the Government regarded a Law Commission review as a sensible way to proceed and the Law Commission agreed that a review of taxi legislation fitted in with their criteria for taking on projects.

The Law Commission is an independent body with a statutory remit to modernise and simplify the law. The Government has indicated that it wants the review to be underpinned by a deregulatory objective commensurate with maintaining satisfactory levels of safety. Beyond that, the Law Commission has been charged with carrying out a root and branch review with a view to providing recommendations and drawing up a draft Bill.

Against that background, the Government is clear that this response should not fetter the discretion that has been given to the Law Commission. Whilst it is entirely reasonable for the Government to give an indication of what it thinks of each of the Committee's recommendations, it must be stressed that in doing so, the Government is not intending to lead the Law Commission towards a particular conclusion or close off any particular avenue of consideration.

Recommendations

Recommendation 1. In our view, the case for a thorough overhaul of the legislation relating to taxis and private hire vehicles is irresistible. (Paragraph 14)

DfT response: The Government agrees that there is a strong case for overhauling the legislation governing taxis and private hire vehicles. That is why the Government has asked the Law Commission to undertake a comprehensive review of the legislation.

Recommendation 2. We recommend that, instead of referring reform of taxi and PHV legislation to the Law Commission, the Government should engage with the trade, local authorities and users about the objectives of future legislation on taxis and private hire vehicles and commit to overhaul that legislation during the course of this Parliament. Once these objectives are decided, the detailed work to frame legislation and guide it through Parliament should begin. This need not involve primary legislation: we consider that the swifter legislative reform order procedure could be used in this case. (Paragraph 15)

DfT response: The Government does not consider that referring the review of taxi and PHV legislation to the Law Commission is in any way inappropriate. On the contrary, the Government considers that the Law Commission is the ideal body to undertake such a review. Its fundamental purpose is to review complex areas of law, it has experience and expertise in carrying out this function and with its independent status comes an ability to assess the issues in an objective way. The Government is satisfied that the Law Commission will undertake an effective and productive review, the final report of which will be delivered during the lifetime of the current Parliament.

The Government is not inclined towards the legislative reform order route to establish a new legislative framework for taxis and PHVs. Whilst the Government expects the draft Bill produced by the Law Commission to have a good degree of support, there will be substantive and controversial issues to be addressed and the Government considers that these would best be considered and debated during the passage of a Bill through Parliament.

PRINCIPLES TO UNDERPIN NEW LEGISLATION

Recommendation 3. We recommend that, in developing proposals for changing the legislation applying to taxis and PHVs, the Government should commission authoritative research into consumers' opinions. Particular attention should be paid to the views of vulnerable groups, such as disabled people, who are often most reliant on taxis and PHVs. (Paragraph 18)

DfT response: The Government accepts that seeking the views of users is a vital element of undertaking any reform of the taxi and PHV legislation. The Government does not, however, accept that a dedicated research project is needed. The Law Commission will engage with consumer organisations—in

order to gain a full understanding of the views of everyone with a stake in this sector—as part of its review of the legislation.

Recommendation 4. We recommend that the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 should be replaced by a single Act or legislative reform order, covering both taxis and PHVs. (Paragraph 19)

DfT response: The Government notes this recommendation. Without wanting to pre-empt the Law Commission's review, it seems clear that a sensible and desirable outcome from the review would be a single Act of Parliament covering both taxis and private hire vehicles.

Recommendation 5. We recommend that the Government provide clearer guidance to local authorities on how taxis and PHVs should be included in local transport plans. (Paragraph 21)

DfT response: Under the Government's commitment to localism, the Department for Transport will not intervene in the way local authorities review their progress against LTPs or require reports or reviews. While local authorities had a statutory duty to produce LTPs by April 2011 it will be for them to decide how to implement and use them.

Recommendation 6. There are strong arguments in favour of national standards in relation to issues which directly relate to public safety, such as the level of CRB check drivers require, the roadworthiness of vehicles and drivers whose licences have been revoked being licensed shortly afterwards by a different district. We recommend that new legislation in this area should provide for this. (Paragraph 23)

DfT response: The Government agrees with this recommendation in principle. There are certain elements of the licensing process where the public would, quite reasonably, expect there to be a degree of consistency throughout the country. We expect the details of the extent of nationally-imposed criteria to be considered in the context of the Law Commission's review.

Recommendation 7. We agree with the Minister that the licensing of taxis and PHVs should remain a local function, not least because of the likely cost and complexity of instituting a national system. (Paragraph 23)

DfT response: Local authorities do, indeed, seem well-placed to deal with this form of transport. They have a good deal of experience and expertise in administering the licensing function and a continuing role for them would obviate the need to establish a new licensing system. However, the Government does not want to pre-empt the Law Commission's fundamental review of the legislation, and would be willing to consider the case for an alternative approach.

Recommendation 8. We recommend that any legal barriers to co-operation between local authorities and innovation in organising and

funding enforcement activity in relation to taxis and PHVs should be reviewed as part of the process of legislative reform. (Paragraph 25)

DfT response: The Government agrees with this recommendation in principle. There would seem to be advantages in enabling local licensing authorities to collaborate over enforcement funding and activity. The Law Commission will consider enforcement strategy and activity carefully as part of their review.

Recommendation 9. We are sympathetic to the argument that offences relating to taxis and PHVs, such as plying for hire, should be dealt with by fixed penalty notices rather than court action and we recommend that the Government should move in this direction when it comes to reform the legislation in this area. (Paragraph 26)

DfT response: The Government accepts that there is merit in considering whether certain offences could be appropriately dealt with by fixed penalty notices. The use of fixed penalty notices is a cost-effective way of dealing with certain low-level offences of an objective nature. We will consider whether there is scope for making use of this form of enforcement for certain low-level taxi and PHV-related offences. The Law Commission will consider the extent to which fixed penalty notices can be incorporated into a more modern regulatory system.

Recommendation 10. We recommend that new legislation should permit existing licensing districts to be combined where local authorities decide it is best to do so. (Paragraph 28)

DfT response: The Government accepts this recommendation in principle. A local authority-based approach to taxi and PHV licensing has advantages in terms of enabling people who know and understand local conditions, circumstances and needs to make decisions. Those same local authorities will also know best when it is desirable or appropriate to combine licensing areas in order that they secure the economies of scale associated with such a policy and that passengers get a more efficient service. Whilst accepting that this recommendation is attractive, the details, for example of how many licensing authorities should be allowed to combine, the extent to which taxi drivers will be compelled to accept hirings within a larger district and whether such a combination should be reversible, will have to be considered by the Law Commission.

SOLVING THE CROSS-BORDER HIRE PROBLEMS

Recommendation 11. We recommend that it should be permissible for taxi and PHV licences to include a condition that the vehicle must principally be operated in the licensing district. A similar provision should also be permitted in relation to driver licences. (Paragraph 30)

DfT response: The Government understands the concerns that some have about the present position but is not convinced that this recommendation (which it understands to relate solely to pre-booked hirings, rather than

immediate hirings at ranks or by being hailed in the street) is a suitable way of dealing with the cross border issues considered by the Committee.

Such a restriction would work against those operators who were located at the edge of a local authority's area and it would work against those operators who were dedicated to long-distance trips eg airport runs where a large proportion of the distance travelled would be beyond the local authority's border. Operators would end up sending for an out-of-district hiring not the nearest driver, but a driver who had not yet reached his limit on out-of-district journeys—and this would increase dead mileage, with adverse environmental implications. In short, it does not sit neatly with a deregulatory approach to reforming taxi and PHV legislation.

Moreover, a restriction of this nature could confuse and unfairly penalise passengers who would be unable to use the operator of their choice.

On a practical level, it would involve local authorities establishing a whole new tier of enforcement activity—at some cost, which might be added to the licence fee—in order to determine which vehicle owners and which drivers had exceeded their quota of out-of-district hirings.

The Government recognises that the Committee's underlying concern is to avoid the situation where taxi drivers are licensed in the north of the country and then locating themselves in the south of the country in order to undertake pre-booked hirings. The Government would note that there are alternative approaches to that proposed by the Transport Committee, for example, obliging licensed operators to use only vehicles (whether taxi or private hire) licensed by the same local authority as granted their operator licence.

The Government, in proposing this possible alternative approach, is not intending to fetter the Law Commission's discretion in undertaking a comprehensive review of the legislation, it is simply demonstrating that there are various potential means of addressing this particular issue.

The Law Commission will, as part of its review, consider the wider picture including why this is actually happening and propose a way forward in that context.

Recommendation 12. In addition, new legislation should permit local authorities to issue fixed penalty notices to out-of-town drivers where there is evidence, for example, that they have worked, or sought to work, for a specified period of time in that district. Local authorities should also be enabled to prosecute operators in other districts which are routinely sending cars to work in their area. (Paragraph 30)

DfT response: The Government does not agree with this recommendation. For the reasons set out in response to recommendation 11, the Government does not consider that directly restricting the area in which a taxi or PHV driver can pick up passengers by means of a condition attached to his licence is a sensible way of proceeding against the background of a review which has a deregulatory objective at its heart.

The Government believes that fixed penalty notices are best deployed for offences which are objective and where the scope for dispute is minimal (for example a driver either was, or was not, wearing his badge). The question of how many out-of-district journeys a driver might have undertaken as a proportion of his overall total number of journeys would be far from straightforward to determine at any time, and particularly not "on-the-spot".

Recommendation 13. In our view it is essential that local authorities justify their approach to the use of these controls in local transport plans, alert drivers and operators in neighbouring districts to their intention to use such powers; and provide adequate warnings to drivers and operators before issuing fixed penalty notices or initiating prosecutions. (Paragraph 31)

DfT response: The Government does not agree with this specific recommendation as it is not convinced that directly restricting the area in which a driver can accept a pre-booked hiring is a desirable way forward.

Conclusion

Recommendation 14. We call on the Government to set out its policy proposals before the end of the year, with a view to holding a consultation exercise in 2012, introducing draft legislation in 2013-14 and taking an Act or legislative reform order through Parliament before the next general election. (Paragraph 33)

DfT response: The Government has asked the Law Commission to carry out a comprehensive review of taxi and PHV licensing and they have agreed to include it in their Eleventh Programme of Law Reform starting in July 2011. The Law Commission's timetable involves them undertaking a consultation exercise in 2012. The Government's plans for introducing draft legislation arising from the Law Commission's review are still subject to consideration.

TAXIS AND PRIVATE HIRE VEHICLES – REGULATION

2.72 Taxi-cabs (“hackney carriages”) are a highly regulated market, and have been since Victorian times (or earlier – some controls were first imposed under the Stuarts). Private hire vehicles have been regulated since the 1970s. There are distinct legal systems for London, Plymouth and the rest of England and Wales; and different systems for taxi-cabs and private hire vehicles. Outside London, local authorities are the licensing authorities for both taxi-cabs and private hire vehicles. In London, licensing is now the responsibility of Transport for London.

Licensing authorities regulate the quantity of taxi-cabs and the fares they can charge, and, for taxi-cabs and private hire vehicles, the quality of services, including the safety of vehicles and the fitness of drivers. Drivers and vehicles must be licensed, and, in respect of private hire vehicles, there must also be a licensed operator.

2.73 The first level of reform would be to reduce the sheer bulk, complexity and inconsistency of the regulatory systems. Central concepts like “plying for hire” have caused considerable problems in the past. There are pointless geographical inconsistencies on such matters as whether a taxi-cab driver needs a separate private hire licence, and whether the vehicle can be used for leisure purposes by its owner/driver. Secondly, there is a need to modernise to reflect technological change – private hire licensing, for instance, is posited on a geographically fixed operator with premises where bookings are made. Finally, the fundamental features of the regulatory system are in need of reconsideration – the separate systems for taxi-cabs and private hire vehicles, the identity of the licensing authorities, the number and nature of licenses and whether all forms of regulation are still necessary.

2.74 This project engages economic and regulatory theory. It will be fundamentally deregulatory, in the sense that it will seek to question the necessity for the various strands of the current regulatory regime, and seek to reformulate those that are necessary in the light of modern understandings of the most efficient and efficacious forms of regulation.

2.75 The taxi and private hire vehicle market had an annual turnover of above £2.2 billion in 2003. It is likely that a modernised and simplified system of licensing will reduce the costs of the licensing system to both local authorities and market participants themselves. However, the realisation of these potential savings would depend on decisions to be taken on the key regulation reform issues which will constitute the substance of the project.

2.76 We expect the project to take three years, with a consultation period in the second half of 2012.

2.77 The project will require close working with the Welsh Government, which is responsible for local government generally and for transport facilities.

