

# Public Document Pack

## Governance

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Chesterfield, Derbyshire S40 1LP

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### The Chair and Members of Taxi Consultative Committee

Please ask for Brian Offiler

Direct Line 01246 345228

Fax 01246 345252

9 July, 2014

Dear Councillor,

Please attend a meeting of the TAXI CONSULTATIVE COMMITTEE to be held on WEDNESDAY, 16 JULY 2014 at 6.00 pm in Committee Room 3, Town Hall, Rose Hill, Chesterfield, the agenda for which is set out below.

## AGENDA

### Part 1(Public Information)

1. Appointment of Chair
2. Appointment of Vice Chair
3. Selection of Trade Representatives

At the meeting held on 9 June, 2014, the following were nominated to be appointed as trade representatives:-

Mr. C. Brown - representing Hackney Carriage trade  
Mr. S. Atkin - representing Hackney Carriage trade  
Ms. M. Briddon - representing Hackney Carriage trade  
Reserve – Mr. S. Bradshaw - representing Hackney Carriage trade

Mr. S. Aldersley - representing Private Hire trade  
Mr. J. Brookbank - representing Private Hire trade  
Ms. A. Dickens - representing Private Hire trade  
Reserve - Ms. V Naylor - representing Private Hire trade

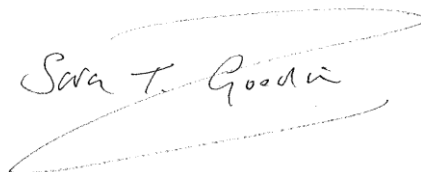
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Chief Executive  
*Huw Bowen*



4. Declarations Of Members' And Officers' Interests Relating To Items On The Agenda.
5. Apologies for Absence
6. Minutes of Previous Meeting (Pages 1 - 8)
7. Matters Arising on the Minutes (Pages 9 - 14)
8. Safety Inspections of Vehicles Between Tests  
Item raised by Steve Aldersley.
9. Derbyshire County Council Issues
10. Police Issues  
Inspector Turner to provide crime figures on taxi related crime.
11. Dates of Future Meetings  
To agree the dates of meetings for 2014/15.

Yours sincerely,

A handwritten signature in cursive script, reading "Sara T. Goodwin", enclosed within a large, loopy oval flourish.

Head of Governance

## **TAXI CONSULTATIVE GROUP**

**Wednesday, 9<sup>th</sup> April, 2014**

Present –

### **Representing Chesterfield Borough Council**

Councillor Vicki Lang (Chair)  
Darran West – Head of Environment  
Trevor Durham - Licensing Manager  
Grace Dowson – Senior Licensing Officer  
Stephen Oliver – Assistant Solicitor  
Shirley Bates, Democratic Services Officer

### **Representing the Police**

Inspector John Turner

### **Representing Derbyshire County Council**

Simon Tranter - Traffic and Safety

### **Representing the Hackney Carriage and Private Hire trade**

David Hopton	Hackney Association and D&C Taxis
Eric Needham	Eric's Taxis
Jim Brookbank	Club
Scott Ashmore	Club
Ann Dickens	Central Cars
Mandy Briddon	Shaws Taxis
Steve Aldersley	A-Line Taxis

### 41/13/14 **DECLARATIONS OF PERSONAL OR PREJUDICIAL INTERESTS BY MEMBERS RELATING TO ITEMS ON THE AGENDA**

No declarations were received.

### 42/13/14 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Allen and Burrows and Lee Wright, DCC.

### 43/13/14 **WELCOME**

The Chair welcomed Inspector John Turner, who had replaced Inspector Steve Ball on this Group.

44/13/14 **MINUTES**

The Minutes of the meeting held on 15 January, 2014 were agreed as a true record.

45/13/14 **MATTERS ARISING ON THE MINUTES**

Town Centre Road Closures

Inspector John Turner reported that a trial of the removal of the restrictions within the Town Centre Road Closure had been carried out at the end of January/early February, in consultation with the Borough Council.

There had been no significant problems and no collisions, either vehicular or involving the public.

This would continue to be monitored to the end of June, when the Order expired.

The Road Closure Order had been made on the grounds of violence and disorder and in view of the reduction in these, the Police would not be applying for a renewal at the end of June.

An order could not be made on the grounds of public safety.

Ann Dickens asked who was monitoring the safety of pedestrians resulting from the closure. She referred to a recent incident where a pedestrian was almost involved in a collision with a car, not a taxi. She also asked for close monitoring of the situation over the Easter period.

Ann reported that Inspector Ball was to meet with representatives of Pubwatch before removal of the restrictions and asked for feedback on this. Inspector Turner confirmed that Inspector Ball had met with Pubwatch on the 15 February and agreed to report the result of that meeting to the next meeting.

Inspector Turner reiterated that an Order such as this could not be made on health and safety concerns. There was no legislation available to make an Order on these grounds.

He also confirmed that he would monitor the situation closely over Easter.

Eric Needham raised concerns that if accidents involving the public did occur, the responsibility laid with taxi drivers and requested that access be for taxis only.

An incident was reported regarding non-removal by the Police of a car parked in the flow of traffic on Stephenson Place. Inspector Turner reported that this incident could have occurred when there were more urgent priorities within the town centre.

### Taxi Ranks

Concerns were raised at the long process involved in changes to the taxi ranks.

Simon reiterated that there was a long process to follow. West Bars was being implemented. The other issues had received objections and therefore had to be reported back to the relevant Committee and would then need to be readvertised. The process was long but was continuing.

It was hoped that if there were no objections, the remaining issues would be agreed towards the end of April/May.

Grace asked that the County Council liaise with the Licensing Section when any works were to commence so that this could be passed onto the drivers.

### Future Agenda

The Chair requested that, in future, a written report be provided for despatch with the agenda, including any issues raised by the hackney carriage/private hire drivers. Support for this would be provided by the Council's Democratic Services Unit if required.

### **AGREED –**

1. That Inspector Turner report back on the meeting held with Pubwatch on 15 February, 2014.
2. That a written report on progress on the taxi ranks be reported to the next meeting.

### 46/13/14/ **UPDATE ON THE FORMULATION OF THE TOWN CENTRE ACTION PLAN**

The Group were informed that the Town Centre Action Plan had not yet been compiled. At the last meeting, Katy Marshall, Policy Officer, had given a presentation on the equalities audit of "A" Boards and had reported that a working group was to be established to consult on the Plan.

It had since been established that there was a working group, the Town Centre Forum, and representatives from this Group were welcome to be part of the Group.

**AGREED –**

That Ann Dickens be put forward as the Group's representative on the Town Centre Forum.

47/13/14 **ACCIDENT RATES FOR TAXIS AND BUSES**

This item had been included on the agenda at the request of Councillor Hawksworth. It was agreed that this item be moved to the next business meeting.

48/13/14 **CRIME FIGURES ON TAXI RELATED CRIME**

Inspector Turner provided crime figures for the period 1 January 2014 to 31 March 2014:-

23 occasions where the driver was the victim  
2 occasions where a taxi company was the victim  
1 occasion where a member of the public was the victim  
0 occasions where the driver was an offender  
5 crimes were racially or religiously aggravated

Timing – 21 crimes were between 0000 hours and 0600 hours.

Violence against drivers – 7 assaults, 3 threatening behaviour, 1 robbery

Crime breakdown:

8 – making off without payment  
4 – damage to vehicle  
4 – common assault  
3 – actual bodily harm  
2 – actual bodily harm racial/religious  
2 – threatening behaviour racial/religious  
1 robbery  
1 wounding  
1 threatening behaviour

Inspector Turner was asked whether the opening hours of licensed premises could affect the amount of incidents and whether premises could be closed down, if this was the case.

Inspector Turner reported that evidence of violence and disorder would need to be gathered before an application to curtail opening hours could be made to the Council.

Taxi representatives expressed concern that there were no Police contact numbers to report incidents. Inspector Turner urged them to use the 101 or 999 numbers.

#### **AGREED –**

That a further report on crime figures be provided to the next meeting of the Group.

#### **49/13/14 VIOLENCE TO TAXI DRIVERS**

Incidents of non payment of fares were reported to the meeting and the fact that drivers did not report incidents, as they lost earnings whilst waiting for the Police to attend.

Inspector Turner was asked whether there could be a faster process or whether the matter could be dealt with the next day. The difficulty with this was that if the matter was dealt with the following day, then drivers had been informed that the matter became a civil matter.

Inspector Turner reported that incidents were given either “Immediate” or “Priority” ratings and were dealt with when resources were available.

It was reported that when a beat officer attended at an incident, the fare was often paid.

It was suggested that drivers be urged to obtain payment in advance.

Inspector Turner urged drivers to continue to report incidents to see if beat officers could attend on site to rectify the matter.

Clarification was sought on the installation of CCTV in vehicles.

Grace reported that CCTV could be installed but the Licensing Section must be notified. Currently some drivers used fake CCTV as a deterrent.

If CCTV was installed then advance notice must be given in the vehicle. Drivers would need to comply with Home Office guidance, for example, making passengers aware of filming.

## **AGREED –**

That an advice note be drawn up for drivers relating to these issues.

### **50/13/14 WHEELCHAIR ACCESSIBILITY EXERCISE**

Grace reported that, in liaison with the Derbyshire Mobility Shop and Stagecoach, a wheelchair loading exercise had been undertaken in March. Of the 8 tested, 2 drivers were unable to load. They were given 14 days to rectify the situation and both passed on retest. Further exercises would be undertaken.

The Council were once again requested to suspend any driver who failed the test, or refused a wheelchair passenger.

Grace reported that there was an enforcement protocol within the Hackney Carriage/Private Hire Driver's Policy. If a driver refused a wheelchair passenger, under the penalty points system, 10 points would be issued. Once a driver had received 13 points, then he/she would be referred to Committee and could face suspension.

Grace also reported that all new drivers were required to pass the DSA test, which included wheelchair loading, but existing drivers did not.

The Council were reviewing the Hackney Carriage/Private Hire Driver's Policy and it was suggested that consultation should be undertaken on the inclusion of a wheelchair competency test as part of this.

A suggestion was also made for drivers to provide proof of competency when applying for a licence.

David Hopton asked whether the Mobility Shop was qualified to run this course and Grace agreed to find this out for the next meeting.

Mandy Briddon felt that it was also the responsibility of the owners of firms to ensure that drivers were competent.

Mandy also raised the issue that drivers should be able to complete the DSA test, which contained training on wheelchair loading, in Derbyshire, as this was not currently available.



## **AGREED**

That progress on the review of the Policy be reported to future meetings.

### 5113/14 **SAFETY INSPECTIONS OF VEHICLES BETWEEN TESTS**

This would be put on the agenda for the next business meeting.

### 5213/14 **ITEMS FOR NEXT MEETING**

#### **Standing Items**

DCC Issues

Police Issues – to include crime figures from April to June.

#### **Other Items**

Accident Data – Councillor Hawksworth's request

Revision of the Hackney Carriage/Private Hire Driver's Policy

Safety Inspections on Vehicles between tests

### 5313/14 **DATE OF NEXT MEETING**

Monday 9 June 2014 – Appointment of Representatives

Wednesday, 16 July, 2014, commencing at 6 p.m.

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## **TAXI CONSULTATIVE GROUP – 16 JULY, 2014**

### **Report on Matters Arising from Meeting of 9<sup>th</sup> April, 2014**

#### **In respect of Minute No. 45/13/14:**

##### **– Meeting with Pubwatch**

Inspector Turner will update the meeting regarding the result of Inspector Ball's meeting with Pubwatch regarding the road closures that took place in February.

#### **In respect of Minute No. 49/13/14:**

##### **– Crime Figures on Taxi Related Crime**

Inspector Turner reports that a Taxi Fares Disputes advice sheet regarding civil and criminal offences has been created between the Police and the Council's Licensing Department, which has been circulated to the taxi companies. A copy will also be sent out on licence renewal and applications. A copy of the advice sheet is attached at Appendix A.

#### **In respect of Minute No. 50/13/14:**

##### **- Wheelchair Tests**

The Licensing Officer reports that no further operations have taken place as the policy is under review and no specific issues have been highlighted.

##### **- Review of Hackney Carriage/Private Hire Driver's Policy**

The Licensing Officer reports that the Policy is out for consultation with comments to be submitted to the Licensing Department by 31 July, 2014. It will then be considered through the Council's Scrutiny process, prior to submission of a report to the Appeals and Regulatory Committee. A copy of the letter which was sent to the trade highlighting the main policy changes is attached at Appendix B. The main policy document can be accessed via the following link:

<http://www.chesterfield.gov.uk/Branches/Chesterfield/Website/Files/Documents/Licensing%202013/Policy%20under%20amendment%20for%20consultation.pdf>.

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# TAXI FARE DISPUTES

Making off Without Payment, Obtaining Services Dishonestly and Civil Disputes



Drivers who provide the service of transporting people around the Chesterfield area are always at risk of encountering awkward or dishonest people who will try to evade their duty to pay for the service by any means possible.

This information sheet is intended to offer guidance as to whether an incident will be investigated as a criminal offence by the Police or whether the matter has to be dealt with by way of civil law by a solicitor. As in all cases the facts must be assessed individually at the time of the incident to decide the correct course of action.

It should be noted that for the police to consider prosecution there has to be an element of dishonesty involved in the actions taken by the passenger(s).

Dishonesty has to pass two tests – Firstly, whether a person's behaviour would be regarded as dishonest by the ordinary standards of reasonable and honest people. Secondly, if the person was dishonest by those standards then whether they were aware that what they were doing was dishonest.

Drunkenness is not a defence to dishonesty.

The following basic examples illustrate the possible criminal offences:-

## **1. A passenger who leaves the vehicle and makes off without paying the fare commits an offence under Section 3 of the Theft Act 1978 - Making off without payment**

In simple terms a person who uses the taxi knowing that payment is required or **DISHONESTLY** makes off without payment, intending that payment shall not be made, commits the offence. The fact that the passenger has run off would satisfy the dishonesty aspect.

The service provided must be lawful therefore an offence cannot be committed if a private hire vehicle or hackney carriage operates outside their respective regulations.

## **2. A passenger who enters the vehicle and has no money in his possession but fails to inform the driver until the journey is complete commits an offence under Section 11 Fraud Act 2006 – Obtaining services dishonestly**

It is an offence for any person, by any **dishonest** act, to obtain services for which payment is required, with intent to avoid payment.

A person is guilty of an offence under this section if he obtains services for himself or another providing;

The person must know that the services are made available on the basis that payment has been, is being, or will be made. It can be committed only where the dishonest act was done with the intent not to pay for the services as expected.

The fact the passenger knowingly uses the service without having the means to pay would satisfy the dishonesty requirement. It can be a defence if a person makes an **honest** mistake as to certain facts causing him/her to take a course of action which, on the surface, appears to be an offence, for example, the person thought they had the money to pay for the taxi but had lost his wallet.

### **3. A Passenger who refuses to pay the fare at the end of the journey commits an offence under Section 11 Fraud Act 2006 – Obtaining services dishonestly**

Provided there is evidence that the passenger entered the cab knowing a fee would be required for the provision of the service with the intent of not paying **and** it can be proved he acted in a **dishonest** manner then an offence contrary to section 11 of the Fraud Act 2006 would be committed.

If the passenger states that he was unhappy with the service and attempts to negotiate part payment and provides his details the matter would become a civil debt and would not be dealt with by police.

### **Civil Disputes**

The boundary between the civil and criminal law will always be the subject to a degree of interpretation but the following are examples of civil matters that cannot be dealt with by the police:-

- **Passenger disputes the fare but makes an offer of payment.**
- **Passenger soils the vehicle agrees to paying the fare but refuses to pay the soiling charge.**
- **Passenger is dissatisfied with the service and refuses to pay the fare but provides their name and address and then leaves the scene.**
- **Passenger has disputed the fare but makes an offer of payment which is refused by the driver, but provides their name and address and then leaves the scene.**

Where there is a dispute and the driver locks a passenger in the vehicle until payment is made or locks the vehicle and drives to a police station, the driver could leave themselves open to criminal proceedings for false imprisonment and/or counter action under civil law.

Taxi drivers have a duty of care to their customers and should not abandon them in potentially dangerous circumstances, even though it may become apparent during the journey that the passenger may not have the full fare. This is particularly relevant when the weather is bad or the passenger is vulnerable, whether through drink or other circumstances.

Environment Services  
Customer Service Centre  
85 New Square  
Chesterfield  
Derbyshire S40 1AH

## APPENDIX B

E-Mail: [trevor.durham@chesterfield.gov.uk](mailto:trevor.durham@chesterfield.gov.uk)

TO ALL DRIVERS AND OPERATORS

Please ask for  
Direct Line 01246 345203  
Fax 01246 345235  
Our Ref  
Your Ref

Date 1 July 2014

Dear Sir/Madam,

The Hackney Carriage and Private Hire Licensing Policy has been reviewed, the main proposals for change are highlighted in this letter but the full document can be accessed via the council website at [www.chesterfield.gov.uk/Hackney-Carriage-and-Private-Hire-Policy-409.html](http://www.chesterfield.gov.uk/Hackney-Carriage-and-Private-Hire-Policy-409.html).

I would welcome your comments on the proposed amendments. You can contact me on the above details and any comments should be submitted by midnight on 31/07/14. The matter is also on the agenda of the Taxi Consultative Committee, the next meeting of which is at 6.00pm on Wednesday 16 July at the town hall.

A summary of the main changes:

**Disclosure & Barring Service [DBS]** – References to Criminal Record Bureau [CRB] are replaced by DBS.

**References to meter** – In keeping with relevant legislation, references to meter are changed to 'taximeter' with regard to hackney carriages.

**Prohibit the use of e-cigarettes in licensed vehicles - schedule 4 'conduct of licensed drivers'.**

The use of e-cigarettes [e-cigs] in licensed vehicles will be prohibited as they have not been shown as safe for public use. England's chief medical officer is on record as stating "the harm from e-cigs is not known but we know they are not risk free", and that "e-cigarettes can produce toxic chemicals, and the amount of nicotine and other chemical constituents and contaminants, including vaporised flavourings, varies between products - meaning they could be extremely damaging to young people's health". The Children & Families Bill proposes the sale of e-cigs to those under 18 years be prohibited and the Welsh Parliament are currently considering a ban on e-cigs in public places, along the same lines as smoking, citing the following reasons:

- E-cigs create an impression that smoking is normal and acceptable;
- The smoking of e-cigs makes enforcement difficult; and
- Children could be tempted to try e-cigs, creating a gateway to smoking.

**Penalty points aggravated by 'protected characteristics' – schedule 3 appendix 4**

The scope of the protected characteristics is widened to include all elements of the Equality Act 2010

such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

**Length of insurance policy - Schedule 1 par. 8.4**

The minimum length of an insurance policy accepted by the council will be six months to prevent the use of short term policies that may not be renewed.

**Schedule 1 par 16.7 - Test failures**

For the purpose of penalty points, the policy will apply if a vehicle is presented for test within 28 days of the previous licence having expired. This is necessary as we have identified a growing trend where the vehicle plate has expired before it was presented for test, thus meaning it is not a 'licensed vehicle' so penalty points could not be issued.

**Commercial advertising par 2.8.2 of policy**

The policy will be relaxed to allow advertising of the taxi company itself. The number and style of adverts is controlled and the main reason for the change cited by the operator concerned was to advertise for drivers.

**Wheelchair accessibility - Schedule 5 Application Guidance par. 4.5**

As requested by trade representatives, drivers of wheelchair accessible vehicles must be qualified to an acceptable standard in the loading of wheelchairs and passengers. The council will accept any one of the following qualifications:

- 1) DSA wheelchair exercise;
- 2) NVQ level 2 of unit 228 Road Passenger Vehicle Driving [Taxi and Private Hire] [7439];
- 3) Modules B1 & B2 of the Passenger Assistant Training Scheme [PATs].

The requirement will apply to **ALL** drivers of a wheelchair accessible vehicle, **not just new drivers**. Drivers will be given a period of six months to produce evidence they have obtained the qualification from when the policy is adopted.

Drivers who have obtained the necessary accreditation will have a small wheelchair logo on their drivers' badge to indicate they can drive wheelchair accessible vehicles. Only drivers with the wheelchair logo on their badge will be allowed to drive a wheelchair accessible vehicle.

**Medical advice regarding diabetes - Schedule 5 par.4.7**

Expanded advice for drivers who have been diagnosed as diabetic as this condition is becoming more prevalent among licensed drivers.

**Appeal against penalty points - Schedule 3 par. 3.6**

Appeals against council penalty points to be decided by the environmental health manager instead of the head of service.

I would appreciate any comments, good or bad, by 31 July 2014 and I anticipate the matter will be considered by the Appeals and Regulatory Committee in August this year.

Yours faithfully,



Trevor Durham  
Licensing Manager