

TAXI CONSULTATIVE COMMITTEE**Wednesday, 20th January, 2016**

Present:-

Representing Chesterfield Borough Council:

Councillor Miles (Chair)
Councillor Caulfield
Councillor V Diouf
Steve Ashby
Trevor Durham
Stephen Oliver

Representing the Hackney Carriage and Private Hire Trade:

Stephen Aldersley
Stephen Atkin
Jim Brookbank (Reserve)
Chris Brown
Mandy Shaw
Nisar Suleman

Representing Derbyshire County Council:

Simon Tranter

**28 DECLARATION OF MEMBERS' AND OFFICERS' INTERESTS
RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were received.

29 APOLOGIES FOR ABSENCE

Apologies for absence were received from Ann Dickens and Inspector John Turner.

30 MINUTES OF PREVIOUS MEETING HELD ON 21 OCTOBER, 2015

The Minutes of the meeting held on 21 October, 2015 were agreed as a true record.

31 **MATTERS ARISING ON THE MINUTES**

Unlicensed Drivers driving Vehicles on the Public Highway

Further to Minute No. 22, Stephen Oliver explained that under the legislation there was an exemption for unlicensed drivers to drive a hackney carriage vehicle as part of an MOT test, but not to drive a vehicle to and from the test. With one exception all the other local licensing authorities did not allow unlicensed drivers to drive vehicles to and from the test station. It was confirmed that a licensed vehicle remained a licensed vehicle at all times unless the licence was surrendered. Trade representatives expressed concerns that the requirements relating to other forms of transport, such as buses, Highways vehicles and emergency vehicles, were not so restrictive, although it was suggested that such concerns would need to be raised by the trade at national level.

It was agreed that the relevant references from the legislation would be circulated with the minutes of the meeting (attached as Appendix A to the Minutes).

32 **SUB-CONTRACTED BOOKINGS AND LOCAL KNOWLEDGE TEST**

Ann Dickens had requested that the issue of drivers licensed by other authorities being sub-contracted to work in the Chesterfield area without having passed the local knowledge test be considered.

It was agreed that this issue was related to the following agenda item and to therefore consider it under that item.

33 **THE USE OF HACKNEY CARRIAGES LICENSED BY OTHER AUTHORITIES**

Trevor Durham presented a report to suggest changes to the Hackney Carriage and Private Hire Licensing Policy regarding the use of non-Chesterfield Hackneys used as private hire vehicles within the controlled area of Chesterfield Borough Council.

The report outlined the reasons for these suggested changes arising from the legal precedent set by the Stockton-on-Tees Borough Council v. Fidler, Hussain and Zamanian case (copy of judgement available at <http://www.bailii.org/ew/cases/EWHC/Admin/2010/2430.html>) and the

subsequent challenge to the policy by a local operator to enable him to use hackney carriages (and drivers) licensed by other authorities to undertake bookings locally.

It was confirmed that this Council could not require a non-Chesterfield licensed driver to take and pass the local knowledge test for Chesterfield before accepting such bookings.

The suggested changes to the policy, attached to the report, were intended to place the responsibility for ensuring any such non-Chesterfield licensed vehicles and drivers complied with legal requirements, in order to mitigate the impact on public safety.

Trade representatives were requested to consider the suggested changes and to send any comments or suggestions to Trevor Durham by 5 February in order to produce lawful, workable and enforceable proposals. There would then be consultation with operators before a report on the proposed changes to the policy for the consideration of the Appeals and Regulatory Committee. Trevor Durham agreed to send trade representatives a copy of the report once this was issued.

34 PRIVATE HIRE AND HACKNEY CARRIAGE FEES AND CHARGES - 2016/17

Trevor Durham reported that a 3% increase in Private Hire and Hackney Carriage fees and charges had been approved by the Appeals and Regulatory Committee, and a schedule of the proposed fees and charges was circulated at the meeting (attached as Appendix B to the Minutes).

The proposed fees and charges would be advertised in the Derbyshire Times and any representations received considered before the proposed implementation on 1 April, 2016.

35 DERBYSHIRE COUNTY COUNCIL HIGHWAYS ISSUES

Further to Minute No. 23, Simon Tranter reported that the capital programme bid for works to enable the use of bus lanes by hackney carriages was due to be considered by the Derbyshire County Council Cabinet in late March. In the event of the bid being successful, the use of each bus lane would be considered on its own merits, but it was not proposed to extend the use to include private hire vehicles in order to minimise the risks to public safety.

Simon Tranter confirmed that details of major roadworks schemes were published on the County Council website (at http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp for information on planned road closures, temporary traffic lights and roadworks and at http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/Current_roadwork_activity/default.asp for details of activity at each site).

36 **POLICE ISSUES**

In the absence of Inspector Turner, it was agreed to defer consideration of any issues to the next meeting.

(A copy of the reported crime figures for the period 1 October – 31 December, 2015 attached as Appendix C to the Minutes.)

37 **ACTIONS TAKEN BY THE LICENSING TEAM SINCE THE LAST MEETING**

Steve Ashby reported that during the past three months no licences had been suspended or revoked.

35 vehicles had failed the vehicle test, and further action was being considered in four cases.

Positive feedback had been received from drivers attending the training sessions on child sexual exploitation, and it was hoped that further sessions would be arranged shortly.

Consideration was being given to changing the timing of the local knowledge test to daytime and comments on this were invited from trade representatives. Representatives requested that consideration be given to simplifying the test and speeding up the process for obtaining a licence. Elected Members agreed to look at the documentation involved.

The Chair suggested that officers arrange for the Elected Members to visit operators to see some of the practical issues first hand.

Appendix A

Legislation re Unlicensed Drivers driving Licensed Vehicles

Transport Act 1985, Schedule 7, Paragraph 3

Section 46 of the Town Police Clauses Act 1847 (drivers not to act without first obtaining a licence) shall not apply to a person driving a hackney carriage licensed under that Act for the purpose of or in connection with—

(a) any test of the mechanical condition or fitness of the hackney carriage or its equipment carried out for the purposes of section 45 of the Road Traffic Act 1988 (tests of satisfactory condition of vehicles other than goods vehicles) or for the purposes of any requirements with respect to such condition or fitness imposed by or under any other enactment; or

(b) any test of that person's competence to drive a hackney carriage carried out for the purposes of any application made by him for a licence to drive a hackney carriage.

Extract from Judgement in Stockton on Tees Borough Council v. Fidler, Hussain, Zamania - [2010] EWHC 2430 (Admin)

So far as concerns a hackney carriage within the meaning of the 1847 Act, the origin of the aphorism 'a hackney carriage is always a hackney carriage once it has been licensed' (see Button, paragraph 13.93) is to be found in two cases to which we were taken. In *Hawkins v Edwards* [1901] 2 KB 169, the proprietor of a hackney carriage was prosecuted for failing to display the plate correctly. A licensed hackney carriage had been sent, driven by a man who was not a licensed hackney carriage driver, and with the plate obscured, to pick up the passenger from his home and take him to a railway station. The defence, that at the time the vehicle was not acting as a hackney carriage, was therefore not a hackney carriage, and therefore he did not need to display the plate, was rejected by the Divisional Court. Lord Alverstone CJ, with whom Lawrance J agreed, said this (page 173):

“I think the right view is that the carriage is licensed for a period, and if used during that period in standing or plying for hire the number must be shewn for the whole period. The language of s. 38 of the Town Police Clauses Act, 1847, means, I think, that every wheeled carriage which is in fact from time to time used in standing or plying for hire is to be deemed to be a hackney carriage for the whole of the period during which it is so from time to time used, and the language of the section does not limit the period to the time during which the carriage is in fact used for standing or plying for hire in a street.”

The other case is *Yates v Gates* [1970] 2 QB 27, another decision of the Divisional Court. The defendant was charged under section 47 of the 1847 Act with driving a hackney carriage without having a hackney carriage driver licence. The argument that no offence had been committed, because although passengers were carried, the taxi sign had not been illuminated and there had been no plying for hire, was rejected by the Divisional Court. Lord Parker CJ, with whom Ashworth and Talbot JJ agreed, said this (page 32):

“it is undoubtedly true that the defendant did not have the necessary licence, and that the vehicle in question was itself licensed to ply for hire. The justices, however, took the view that unless the vehicle was plying for hire it would not be a hackney carriage the driver of which would require a licence. That, of course, envisages that a vehicle licensed as a hackney carriage as defined in section 38 of the Town Police Clauses Act, 1847, must change its character from moment to moment; when it is not plying for hire it is not a hackney carriage, and when it is plying for hire it is a hackney carriage.

In my judgment section 46 is perfectly plain. No person shall drive any vehicle which is licensed as a hackney carriage, whatever it may be doing at the particular moment, unless he himself has a licence as required by section 46. Support for this view may be found in *Hawkins v. Edwards* [1901] 2 K.B. 169, where the argument which apparently found favour with the justices in this case was not acceded to in the Divisional Court.

In my view the case should go back to the justices with a direction to convict”.

Table of Private Hire & Hackney Carriage Fees 2016/17

AppLicence/Registration/ Service	NOTES	Agreed 2016 Fee (£)
DBS FEES		
DBS Enhanced Disclosure		26.00 + DBS fee (£44.00) £70.00
Drivers Licences/Badge		
First Application		£205
Renewal		£205
Knowledge - Written + Driven		£92 (£46 each test)
Contract KT's	No Geographical Test	£31.00
Replacement Badge Card		4.00*
Replacement Card Holder		4.00*
Badge Holder – dashcard		1.00*
Lanyard		1.00*
DVLA Check		£15.00
Vehicles		
First Application – Private Hire		£146.00
First Application - Hackney Carriage		£146** **£10 Survey Cost
Renewal – Private Hire		£102
Renewal Hackney Carriage		£102** **£10 Survey Cost
First Application Executive Hire		£66
Renewal Executive Hire		£59
Replacement Front Plate		9.00
Replacement Rear Plate		11.00
Transfer of Licence		13.00
Change of licensee details		13.00
Duplicate Licences		13.00
Plate Mounting Kits & Pouches & ABO Sign for Vehicles		
Rear Flexi Plate Kit – Holders		5.00*
Front Flexi Plate Kit – Holders		3.00*
Key & Button Set		2.00*
Yellow Security Key		0.25*
Full Flat Extension Plate – Brackets – Front		5.00*
Double Sided High Bond Pad		2.00*
2 x Pouch for quarterlights		2.00*
Back Rear Bracket		7.00*
Back Rear Bracket Kit		2.00*
2 x Quarterlight Replacements		2.00*
Pouch for Dashcard		2.00*
1 Dashcard Replacement		2.00*
ABO Sign (pair)		5.00*

Operators Licence (core fee plus cost per vehicle)		
Core fee (plus cost per vehicle)	£642.00	
Cost per vehicle	£28.00	

Table of Private Hire & Hackney Carriage TESTING Fees 2015/2016

Vehicle Test – New or Renewal	£60.00 Cost (inclusive of Ministry and Taxi Test) (VAT Exempt)
Vehicle Re-Test	£15.00 – if returned within 10 working days £35.00 – if returned after 10 working days (inclusive for Ministry re-testing elements) (VAT Exempt)
Limousines Vehicle TEST Testing Station do not do MOT's	£25.00 (Not VAT Exempt)

C Division Recorded Crimes involving Taxi's 1/10/15 to 31/12/15

Chesterfield Policing Section (CBC area)

19 Crimes

- 19 occasions where the driver was the victim
- 0 occasions where a member of the public was the victim
- 0 occasion where a Taxi company was the victim
- 0 occasion where the driver was an suspect
- 2 crimes were racially or religiously aggravated

Timing – 11 crimes were between 0000hrs and 0600hrs

Violence against drivers – 2 incidents of racially aggravated verbal abuse
1 threatening behaviour
1 assault

Crime breakdown -

- 10 Making off without payment
- 3 Public Order offences (2 racially aggravated)
- 5 Damage to Taxi
- 1 Assault on a driver

Outcomes

- 6 Suspect identified – restorative justice disposal
- 5 Investigated but remains undetected
- 5 Suspect identified and charged
- 1 Suspect identified but insufficient evidence to charge
- 2 Suspect identified, investigation ongoing

Other council areas - Bolsover and NE Derbyshire Policing Sections

8 Crimes

- 8 occasions where the driver was the victim
- 0 occasion where a member of the public was the victim
- 0 occasions where the driver was an offender
- 1 crimes were racially or religiously aggravated

Timing – 3 crimes were between 0000hrs and 0600hrs

Violence against drivers – 2 assault against a driver
1 incident of racially aggravated verbal abuse

Crime breakdown -

- 3 Making off without payment
- 1 Racially aggravated public order offence
- 1 Damage to Taxi
- 3 Assaults on a driver

Outcomes

- 3 Suspect identified – restorative justice disposal
- 2 Investigated but remains undetected
- 1 Suspect identified and charged
- 1 Suspect identified, investigation ongoing
- 1 investigation ongoing, suspect not identified