

MINUTES OF THE
REGULATORY COMMITTEE

held on 11 July 2024 at 7pm

Present:

Councillor R.J. Lee (Chair)

Councillors A. Davidson, S. Davis, J. Frasca, L. Mascot, V. Pappa, S. Scott, and P. Wilson

1. [Apologies for Absence](#)

Apologies for absence were received from Councillors Chambers, D. Clark, H. Clark, Hawkins, and John.

2. [Minutes](#)

The minutes of the meeting held on 29 February 2024 were agreed as a correct record and signed by the Chair.

3. [Declaration of Interests](#)

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. [Public Question Time](#)

One public statement had been submitted in advance, which related to Item 5, this was heard by the Committee during the discussion of that item and is detailed under that minute.

5. [Hackney Carriage \(Taxi\) Trade Tariff Petition Proposal by Chelmsford Taxi Drivers' Association \(CDTA\)](#)

The Committee considered a proposal made by the CDTA, to introduce a Call out/Booking fee for fares charged in respect of Hackney Carriages (Tariff Charges). The Committee were asked to consider the petition and if they were in agreement, it was noted that the proposal would be advertised for 14 days and if any objections were submitted the matter would be considered at a future meeting or the proposals would be put in place if no objections were received. The Committee were informed that the proposals aimed to address and enhance service levels, especially for residents outside the City Centre, by effectively covering 'dead miles', the distance travelled by a Hackney Carriage without a passenger. It was noted that this would primarily occur when the taxi was operating privately and travelling to pick up passengers rather than being hailed on the street or picking up from designated ranks. The Committee heard that Brentwood District Council had a similar scheme, but they were the only Council in Essex to have one.

The Committee heard from a representative of the CDTA who spoke in support of the scheme. They stated that there would be in effect by no price increase for the end customer, waiting times would be reduced significantly and it would allow Hackney drivers to access the niche Private Hire work. It was noted that the price the customer pays would still be the same as if booking a private hire, as the 'dead miles' would in effect normally be calculated into the price quoted for the journey. Therefore, in effect the customer would be paying the same, but with a better chance of getting a taxi to them outside of the City Centre. The Committee also heard that the proposals would greatly benefit wheelchair users as 95% of all wheelchair accessible taxis were Hackneys rather than Private Hire so there would be more available vehicles for them.

The Committee also heard from another taxi driver who had submitted a public statement for the meeting. They felt that the proposal was another way for 6 seater vehicles to get more higher value fares and they did not feel enough facts had been provided to prove the proposals were warranted. They also felt that the proposals should be researched more fully and deferred to a future meeting, or be rejected and it be made clear that the proposals could not be revisited for a number of years.

In response to questions from members on the proposals, it was noted that;

- The Operators could choose the price for the call out fee, but it would of course be in their interest to price this fairly and at the market rate.
- Roughly 5% of Private Hire vehicles were wheelchair accessible, compared to around 50% of Hackney's being wheelchair accessible.
- Journey prices would still be made clear to the customer before confirming a booking so they would always be aware of the final price.
- The playing field between Private Hire's and Hackney's would essentially be equalised if agreed.
- The larger Private Hire companies generally used the Chelmsford Tariff to set their fees and the only exceptions were for large events or airport runs.

Members of the Committee raised concerns, over the booking fee being a discretionary charge rather than a specific amount, the area in which the fee would start to be charged, a lack of data on the topic and a lack of information from the scheme in Brentwood.

RESOLVED that the item be deferred to the next meeting of the Committee and officers be asked to gather more information on the specific areas of the proposal listed below;

- How had the scheme been operated in Brentwood, its effectiveness and had there been any complaints?
- The distance upon which the booking fee could be charged and where the tariff would actually apply to?

(7.02pm to 7.40pm)

6. Application to appeal the decision of a refusal of a Pavement Licence

Cllr Pappa declared a non registrable interest in this item and left the meeting whilst it was considered.

The Committee were requested to consider an application to review the decision made by the Licensing Authority in relation to the refusal of a pavement licence. The Committee heard that the initial application had been refused in accordance with the Council's Pavement licence policy, specifically section 2 where the proposed area was not adjacent to the premises. It was noted that there was no set appeal process in the relevant legislation, but Council's could undertake an internal review process, which the Regulatory Committee had been asked to do by Biriyani Boy. The Committee heard that the application had been properly made for the premises on Baddow Road and that comments had been received during the consultation period from the Council's Public Protection Manager and Essex Highways. It was noted by the Committee that the application, detailed the tables and chairs being removed by 10pm and that if approved, the application would need to be changed to meet the criteria of plastic chairs not being permissible.

The Council heard from representatives of Biriyani Boy who stated that they had previously held licences and were disappointed that the recent application had been refused. They stated that it brought extra business to their area of Baddow Road, they did not think a refusal was justified and that the shop next to them had given permission for their outside space to be used. They felt that by granting the licence it would help to promote small businesses in the City Centre and help it to thrive. They also stated that the proposals would not affect wheelchair users as there was still a large gap to the side of where the tables and chairs would be.

The Committee agreed that the proposals would support a small local business and the Baddow Road area of town generally and they therefore decided to support the application. It was noted however that the area applied for would need to be amended slightly by officers and then agreed with the applicant, therefore the Committee decided to grant a delegation to the Director of Public Places to approve the application once it was amended accordingly.

RESOLVED that the Director of Public Places be granted delegated authority to approve the application, upon a new reduced area being agreed between officers and the applicant.

(7.40pm to 7.50pm)

7. The 'Police, Factories, etc, (Miscellaneous Provisions) Act 1916 – Adoption of Model Street Collection Regulations

The Committee were asked to consider a report, seeking their approval to the making of the "Model Street Collection Regulations", as set out in Schedule 1 of the Charitable Collections (Transitional Provisions) Order 1974 ("the Model Regulations"), within the district of Chelmsford. The Committee heard that before reviewing the street collection policy, it was recommended that the Council make the Model Regulations for street collections. It was noted that the regulations prescribed various requirements relating to the application process and the way collections must take place. The Committee heard that there was no obligation to make the

model regulations and the Council could set its own (i.e. bespoke, in whole or in part ,regulations), but they would then need additional consideration by the Department of Culture, Media and Sport before confirmation and given that the Model Regulations are set out in the legislation there is no guarantee that bespoke regulations would be acceptable.

In response to questions from the Committee, it was confirmed that there had been evidence of street collections taking place in Chelmsford where concerns had been raised that the collections were not genuine (in terms of the stated destination of the proceeds or the public were being misled in some way). It was therefore, recommended by officers that the Council had the means to regulate and exercise some control over street collections with a view to preventing reoccurrence of such incidences. Ultimately, the Council could take enforcement action (i.e. prosecute where there was a breach of such regulations). Any such regulations would be operated in conjunction with a street collection policy which would in turn, be put before the Committee at a future date for approval.

RESOLVED that pursuant to section 5 (1) of the Police, Factories, & c. (Miscellaneous Provisions) Act 1916, the Council make the Model Street Collection Regulations as set out in the Schedule to the 'Charitable Collections (Transitional Provisions) Order 1974 (SI 1974/140).

(Such Regulations not to come into operation unless and until confirmed by the Secretary of State (DCMS) and published for such time and in such manner as directed by the Secretary of State).

(7.50pm to 8.15pm)

Exclusion of the Public

Resolved that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Items 8 & 9 on the grounds that they involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

8. [Local Government \(Miscellaneous Provisions\) Act 1976 – Application for a new Hackney Carriage/Private Hire Dual Driver’s Licence](#)

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider an application for a new Hackney Carriage/Private Hire Dual Driver's Licence by Mr X, who had relevant convictions on their record and to determine whether or not they were a fit and proper person to hold a licence. The Committee were reminded of its adopted 'Guidelines Relating to the Relevance of Convictions' document which detailed the time period's an applicant should be free of certain convictions. It was noted that the applicant's criminal convictions were outside of the quoted time periods, but it had been felt by officers that due to the lack of background information and nature of the offences it was considered appropriate for a decision to be made by the Regulatory Committee, rather than at officer level.

Mr X attended the meeting to speak to the Committee and answer questions about their criminal convictions and application. They explained the circumstances behind the convictions and gave further background information about the offences and their criminal record since the events in question.

The Committee were satisfied that Mr X was a fit and proper person to hold a licence. The Committee also noted that the offences had been committed a long time ago and outside of the timelines quoted in the 'Guidelines Relating to the Relevance of Convictions' document.

RESOLVED that;

- i. Mr X be granted the licence as applied for and;
- ii. Detailed reasons for the decision be agreed with the Chair and sent to Mr X.

(8.27pm to 9.06pm)

9. [Local Government \(Miscellaneous Provisions\) Act 1976 – Application for a Review of a Hackney Carriage/Private Hire Dual Driver's Licence](#)

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/private hire drivers licence held by Driver X, following a request from Essex Police to suspend the licence due to a previous criminal

investigation and to determine whether or not they remained a fit and proper person to hold a licence.

The Committee were informed that Driver X had held a licence for just over 20 years and had been subject of a previous review regarding their conduct in 2021, which had resulted in a one month suspension and mandatory attendance of the Green Penny training course. The Committee heard that in 2023 there had been a request made by Essex Police for Driver X's licence to be suspended, which officers actioned, due to an ongoing criminal investigation into a serious sexual assault, but that in early 2024 the investigation had been concluded with no further action. The Committee heard that due to the nature of the allegations, officers still felt a continued suspension of the licence was appropriate, until further information could be gathered for the Regulatory Committee to then make a decision on lifting the suspension or revoking the licence.

The Committee heard that an enhanced DBS certificate had been sought from Driver X, which had been applied for, but not yet received by Driver X or seen by officers. The Committee also heard that further disclosures had been made by Essex Police which detailed actions of Driver X on the night of the allegations which raised further concerns from officers about Driver X being a fit and proper person. Therefore officers informed the Committee, that despite the criminal investigations not resulting in charges, there were still concerns about inconsistencies in Driver X's account and unresolved safety issues, that put into question their status as a fit and proper person. The Committee were also reminded of the history of complaints and investigations against Driver X, including allegations of misconduct towards a vulnerable passenger and a subsequent serious sexual assault investigation.

Driver X attended the meeting to provide their version of events and answer questions from the Committee. The Committee asked questions about the allegations made against Driver X and Driver X informed them that the allegations were false and that was why the Police had ended their investigation. Driver X also provided the Committee with the enhanced DBS certificate, that they had received on the day of the meeting. The relevant part of the certificate was read out to the Committee by officers and it included a disclosure from the police, regarding the allegations that in their opinion, raised significant concerns for someone applying to work in a workforce such as a taxi driver, working with vulnerable members of the public.

RESOLVED that: (i) the dual drivers licence held by Driver X be revoked pursuant to section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 for other reasonable cause: namely, that the Committee was no longer satisfied that Driver X was a fit and proper person to hold such licence; and

(ii) that the revocation shall have immediate effect - as it appears to the Committee, pursuant to section 61 (2B) of the 1976 Act, that it is in the interests of public safety that this be the case. An explanation as to why the Committee's considers this to be the case is included within the reasons for decision sent to Driver X. (Driver X's licence is to remain suspended until the decision notice formally notifying them of the immediate revocation of their licence has been sent out.) and;

(iii) that detailed reasons for the decision be agreed with the Chair and sent to Driver X

(9.07pm to 10.04pm)

10. Urgent Business

There were no matters of urgent business.

The meeting closed at 10.04pm

Chair