

# Public Document Pack

## Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr Bridgend County Borough Council

Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB



Rydym yn croesawu gohebiaeth yn Gymraeg.

Rhowch wybod i ni os mai Cymraeg yw eich dewis iaith.

We welcome correspondence in Welsh. Please let us know if your language choice is Welsh.



Dear Councillor,

### **LICENSING COMMITTEE**

A meeting of the Licensing Committee will be held in Committee Rooms 2/3, Civic Offices, Angel Street, Bridgend CF31 4WB on **Tuesday, 7 March 2017 at 10.00 am.**

### **AGENDA**

#### **1. Apologies for Absence**

To receive apologies for absence from Members.

#### **2. Declarations of Interest**

To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.

#### **3. Approval of Minutes**

3 - 10

To receive for approval the minutes of the meetings of the Licensing Committee held on the following dates:-

25 October 2016

27 January 2017

#### **4. Introduction of 'Intended Use/Remote Trading Policy' for Hackney Carriages**

11 - 30

#### **5. Hackney Carriage Meter and Equipment Specification**

31 - 34

#### **6. Urgent Items**

To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.

Yours faithfully

**P A Jolley**

Corporate Director Operational and Partnership Services

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Councillors:

PA Davies  
E Dodd  
CJ James  
P James  
PN John

Councillors

DRW Lewis  
JE Lewis  
DG Owen  
E Venables  
R Williams

Councillors

RM James  
M Jones  
MEJ Nott OBE

# Agenda Item 3

LICENSING COMMITTEE - TUESDAY, 25 OCTOBER 2016

MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN COMMITTEE ROOMS  
2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 25 OCTOBER  
2016 AT 10.00 AM

Present

Councillor R Williams – Chairperson

GW Davies MBE  
PN John  
DG Owen

PA Davies  
DRW Lewis  
RM James

E Dodd  
JE Lewis

CJ James  
HE Morgan

Apologies for Absence

P James, E Venables and D Patel

Officers:

|                 |   |
|-----------------|---|
| Daniel Cook     | Licensing Policy Officer                      |
| Katia Daw       | Lawyer  |
| Yvonne Witchell | Team Manager Licensing                        |
| Mark Galvin     | Senior Democratic Services Officer Committees |

23. DECLARATIONS OF INTEREST

None.

24. APPROVAL OF MINUTES

RESOLVED That the minutes of the meeting of the Licensing Committee of 24 May 2016 be approved as a true and accurate record.

25. INTRODUCTION OF 'INTENDED USE/REMOTE TRADING POLICY' FOR HACKNEY CARRIAGES

The Team Manager Licensing introduced Daniel Cook, Licensing Policy Officer to the Committee. The Licensing Policy Officer then presented a report on the Introduction of Intended Use/Remote Trading Policy for Hackney Carriages.

The purpose of the report was to consider the risk to public safety presented by the remote trading of Hackney Carriages in other Authority areas and to seek approval to consult on a draft policy to mitigate such risk.

Some authorities across the UK were experiencing a high number of applications for Hackney Carriage Vehicle licences, Joint Hackney Carriage and Private Hire Driver licences from applicants living in different local authorities to the one they were applying to. The concern being that once they have the licence they will then trade in other Authorities. This causes difficulties for both the Authority in which they are trading as well as the Authority in which they are licensed.

In 2008 a High Court Judgement – Newcastle City Council v Berwick-upon-Tweed established a principle that it was lawful for Hackney Carriages to trade in a local authority area other than that which issued the licences. The case precedent arose as a

result of a challenge from Newcastle City Council against Berwick-upon-Tweed where there was considerable disparity between the standards of vehicles, conditions of licence and fees. There were a disproportionate number of licence applications in Berwick-upon-Tweed, where applicants sought to take advantage of less stringent conditions and preferential fees although vehicles and drivers were actually intending to trade exclusively in Newcastle. By taking fees away from Newcastle City Council it detracted from their ability to promote public safety in a city centre environment, with a consequential risk to the travelling public

The decision was that such activity was lawful. However the problems it caused, such as difficulties enforcing standards and regulating the vehicles, remained. Therefore, post the decision, it was for individual licensing authorities to take their own steps to manage the problem. Several licensing authorities identified "out of area" vehicles trading in their Boroughs and took steps to eliminate such trade through the creation of a policy governing remote trading. The main consideration in the policies was where the vehicle would predominantly intend to trade. If it was outside the area, the local authority could either refuse to grant the licence or seek to revoke the licence for breach of the policy post grant. The Licensing Policy Officer confirmed that this had not yet been tested in court.

This was mainly larger cities but more recently all types of areas have been affected

This policy is the attempt by Bridgend to deal with the problem locally and specifically deals with those predominantly trading in other areas. Without the policy, Bridgend Enforcement Officers only have powers to deal with vehicles licensed by their own area. They would have to rely on Enforcement Officers from other areas "coming in" to regulate the other vehicles and this is not practicable.

The Licensing Policy Officer confirmed that the consultation would include questionnaires to the taxi trade, walking around the taxi ranks and letters to the operators and vehicle proprietors.

The Committee questioned if other authorities had already adopted this policy and if so, was it working satisfactorily or were any experiencing major issues. The Licensing Policy Officer explained a few areas had already implemented similar policies. The respective success of these policies depended on the level of cooperation between the neighbouring Authorities and different areas were having different levels of success.

Members referred to the requirement in some areas for applicants to sit a Knowledge Test before they were able to trade. This was not a requirement in Bridgend which made it easier to secure a licence here than in authorities which had such a test.

Members welcomed the policy and questioned the number of drivers in Bridgend who lived outside the area. The Team Manager Licensing explained that circumstances changed and drivers moved in and out of the area. It was explained that there could be changes to policy in the future and Bridgend could introduce a knowledge test.

Members asked if this was a devolved issue. The Lawyer explained that they were not creating a new Law. The Law of England and Wales remained as drafted, this created individual licensing Authorities. It is the role of each Licensing Authority to licence drivers and vehicles and adopt such policies as are necessary to do so. This is a policy which the Committee are deciding whether they should approve to consult upon.

The Lawyer reminded Members that they were not creating a criminal offence. Each licensing authority was responsible for its own policies and enforcement and each had

its own Licensing Committee. Breach of the Policy may be a reason to consider revoking the license but this would not be a criminal offence.

The Lawyer further reminded Members that approval was being sought from the Committee to consult on the draft policy. Members were invited to take part in the consultation and that the consultation was true and meaningful and therefore when the policy next comes before them it could be in a different format and could have changed to take account of any concerns or comments they make as part of the consultation.

The Committee asked if the policy would apply to the driver or the vehicle. They were advised that the policy covered the vehicle and the licensed driver. The Committee suggested that the policy would be hard to administer because every single job a vehicle had taken in a period would have to be checked.

The Committee were aware that the policy had not been tested in Court and requested information on what the likely costs would be. The Lawyer explained that there were two ways that this could end up in the court arena;

The First was through a Judicial Review. The most likely time for this would be when the policy was implemented. Costs in Judicial Reviews can be large and are borne by the unsuccessful party. Hopefully, so long as the correct procedure is followed for the policy to be adopted, and this consultation stage is part of that, the risk of a judicial review would be low.

The second is that when the policy is applied, and a licence is refused or revoked, there is a right of appeal to the Magistrates' or Crown court. This is in the criminal courts but in their civil structure and is dealt with as any Appeal but means that the Court would consider and apply the Policy.

Dealing with the Consultation the lawyer advised that a consultation team would deal with advising on how to run the consultation. They would ensure that all necessary people were communicated with and any publications required took place.

The Licensing Policy Officer confirmed that the policy was based on a template approved by the Licensing Technical Panel of the Directors of Public Protection Wales (DPPW) which was approved for use by Welsh local authorities. Previous consultations had been held in Cardiff and the Vale and the policy was positively received.

Members questioned the process of "policing" the policy and that the onus would be on the authority to provide evidence to the Committee before a licence would be revoked. The Licensing Policy Officer explained that Enforcement officers could investigate allegations and the evidence would also come from the taxi operators and from experience their systems were set up so that jobs could not be deleted. The smaller operators did not use these systems but it was likely that there would not be an issue with the smaller operators. It had appeared previously that the trade were keen to provide information and they often supplied registration numbers and dates/times to enforcement officers.

The Committee asked if it could be made a criminal offence to work outside the authority. Members were advised that the Licensing Authority could create policy to assist in issuing and revoking licences but it had no power to introduce legislation creating a criminal offence. Also there were some occasions where a "one off" legitimate journey was valid and should be allowed to continue. Creating a policy was the only option available to the licensing authority at the moment. If Members felt that a criminal offence should be created they would need to make contact with Central Government who draft England and Wales legislation. The Committee supported the proposal whilst

**LICENSING COMMITTEE - TUESDAY, 25 OCTOBER 2016**

recognising that policing it could be a problem. There could be resource issues however having a policy would allow the authority provision to investigate and take action if necessary and that at the moment there was nothing in place.

**RESOLVED**

1. That the content of the report be noted.
2. That approval be given to consult on the introduction of an Intended Use/Remote Trading Policy in Bridgend County Borough with a further report being presented to Committee with the outcome of the consultation and a decision as to whether to adopt the policy

26. **URGENT ITEMS**

There were no urgent items.

The meeting closed at 10.45 am

**LICENSING COMMITTEE - FRIDAY, 27 JANUARY 2017**

**MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN COMMITTEE ROOMS  
2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON FRIDAY, 27 JANUARY  
2017 AT 10.00 AM**

Present

Councillor R Williams – Chairperson

GW Davies MBE  
P James  
M Jones

PA Davies  
PN John

E Dodd  
DG Owen

CJ James  
E Venables

Apologies for Absence

DRW Lewis, JE Lewis, RM James and MEJ Nott OBE

Officers:

Will Lane

Yvonne Witchell

Mark Galvin

Andrea Lee

Amanda Ewington

Team Manager Licensing

Senior Democratic Services Officer - Committees

Senior Lawyer

Licensing Enforcement Officer

**27. APOLOGIES FOR ABSENCE**

Apologies for absence were received from the following Members:-

Councillor D Lewis

Councillor JE Lewis

Councillor RM James

Councillor MEJ Nott OBE

**28. DECLARATIONS OF INTEREST**

None.

**29. LICENCE FEES: EUROPEAN COURT OF JUSTICE RULING - HEMMING V  
WESTMINSTER**

The Corporate Director – Operational and Partnership Services submitted a report, the purpose of which, was to advise Members of the recent European Court of Justice ruling in the Hemming v Westminster Case. The ruling has implications for the way in which local authorities can charge for the cost of administering and enforcing certain licensing regimes.

The Operational Manager, Neighbourhood Services confirmed that it was necessary to restructure some of the Council's licensing fees in light of the outcome of a recent Court Hearing.

The report explained that in 2012, sex shop owner Timothy Hemming instituted legal proceedings against Westminster City Council, contesting that the level of licence fees charged by that Council were not reasonable. The sex shop fees were in excess of £26k.

The Operational Manager, Neighbourhood Services, advised that the case then went to the Court of Appeal in 2013 who agreed with Mr. Hemming. However, it was then referred to the Supreme Court in 2015, and they overturned the decision of the Court of Appeal, adding that the reason for this, was that local authorities could set their fees at a level that would enable them to recover the full costs of managing and enforcing the licensing regime, including the costs incurred in proceedings taken against unlicensed operators.

The Supreme Court also gave consideration to how such fees should be structured, and it identified two different approaches to charging licence fees, ie Type A and Type B as were outlined in paragraph 3.5 of the report.

The Operational Manager, Neighbourhood Services, added that BCBC and nearly all other local authorities complied with Type B charging in respect of licensing fees. However, in view of the above, this did not comply with the law as determined by the European Court of Justice (November 2016).

The next section of the report, advised that Licensing Authorities were now required to structure their fees, under the Type A approach, as explained in paragraph 3.5 of the report, and paragraphs 4.1 to 4.3 of the report expanded upon how this could be achieved.

In terms of the financial implications of the report, the Licensing Service was required to be self-financing within the limitations of the statute. The Operational Manager, Neighbourhood Services added that the Type A approach may increase the administrative burden on the Licensing Section, especially if it involves pursuing non-payment of the second fee; however, these costs would need to be considered and factored into the new fee structure.

**RESOLVED:** That the Committee noted the report, and awaits a further report on this matter to ensure the Council's licensing processes reflect those advocated by the European Court of Judgement.

**30. APPLICATION FOR FORD JOURNEY PLUS TO BE APPROVED AS A VEHICLE  
SUITABLE FOR USE AS HACKNEY CARRIAGE IN BRIDGEND**

The Corporate Director – Operational and Partnership Services submitted a report, the purpose of which, was to consider the suitability of a Ford Journey Plus to be licensed to carry six passengers as a Hackney Carriage in Bridgend. He added that a similar vehicle would be available for inspection at the meeting.

The report gave some background information, which contained information on vehicle specifications that qualified in accord with the Council's Licensing Policy, to be classed as vehicles suitable to carry six passengers or less than that if they carried a wheelchair passenger.

The Senior Licensing Enforcement Officer advised that the report was subject of a request that had been made by a Mr Byron Davies for the licensing authority to consider the Ford Journey Plus as a type of vehicle suitable for use as a hackney carriage in Bridgend CBC. He had not yet purchased the vehicle.

A similar vehicle to the one Mr Davies intended purchasing, was inspected by a Licensing Enforcement Officer and was found not to be suitable to be licensed in its present form, as it did not meet the dimensions as specified in the hackney carriage vehicle specifications policy, primarily as the rear seat width was 15.5 inches and as such below the required 17 inches.

A photograph available from the Cab Direct website of the two rear foldaway seats was attached at Appendix A to the report.

Mr Davies had sent a letter to the Council (Appendix B to the report refers) requesting that the Authority considers licensing the vehicle for 6 passengers, notwithstanding the fact that as a result of the vehicle inspection, he had been advised that the vehicle did not meet the minimum specification, but that it could be licensed for fewer passengers.

The Committee (aside of Councillors C James, P John and M Jones) then proceeded to inspect a similar vehicle to the one Mr Davies intended purchasing, which situate in the Civic Offices basement car park.

Following the Members/Officers, Mr Davies and Mr P Renwick from Premier Cars returning to the meeting, members asked questions of Mr Davies in respect of the vehicle he attended purchasing, similar to the vehicle that was inspected.

Officers and the applicant then retired from the meeting, in order that Members could deliberate the decision with the advice of the Legal Officer.

Upon parties being summoned to return to the meeting, it was

RESOLVED: The Committee has considered the application to licence a Ford Journey Plus to carry six passengers as a Hackney Carriage in Bridgend. The Committee have inspected the vehicle and considered their policy. This vehicle does not meet the policy as the two rear tip and turn foldaway seats do not comply with the vehicle specifications contained in the policy as the seat width only measures 15.5 inches, which is below the requirement of 17 inches. After inspecting the vehicle and sitting in the two foldaway seats the Committee have decided that they are not suitable to carry passengers because of the difficulties in entering and exiting the vehicle when using those seats. The Committee have decided to licence the vehicle to carry four passengers and a wheelchair.

The Committee will not make a determination in relation to a private hire vehicle because the application before Members was for a hackney carriage and not a private hire vehicle.

31. URGENT ITEMS

None.

The meeting closed at 12.30 pm

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## BRIDGEND COUNTY BOROUGH COUNCIL

### REPORT TO LICENSING COMMITTEE

7 MARCH 2017

### REPORT OF THE CORPORATE DIRECTOR OPERATIONAL AND PARTNERSHIP SERVICES

#### INTRODUCTION OF 'INTENDED USE/ REMOTE TRADING POLICY' FOR HACKNEY CARRIAGES

##### 1. Purpose of Report.

1.1 The purpose of the report is to:

- To report back on the consultation undertaken in respect of a proposed "Intended Use/remote trading" policy for Hackney Carriages.
- To determine the adoption of the policy in respect of intended use/remote trading of Hackney Carriages detailed in Appendix A.

##### 2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

2.1 The proposals are necessary to enable the Council to discharge its functions as a taxi licensing authority.

##### 3. Background.

3.1 At the meeting of 25 October 2016, Members received a report relating to the 2008 High Court Judgement – Newcastle City Council v Berwick-upon-Tweed, which established a principle that it was lawful for Hackney Carriages to trade as Private Hire Vehicles, (accepting only pre bookings) in a local authority area other than that which issued the licences (the home authority).

3.2 The judgement in itself was acceptable, in that many licensed vehicles trade to some extent in areas other than the home licensing authority where licences are issued. For example, residents of Bridgend may wish to travel to or from neighbouring Authorities, such as Cardiff, Newport, or Caerphilly and this generally does not present a problem to the trade or the travelling public, being a legitimate aspect of a journey.

3.3 However, the case precedent arose as a result of a challenge from a licensing authority (Newcastle City Council) against a neighbouring licensing authority (Berwick-upon-Tweed) where there was a considerable disparity between standards of vehicles, conditions of licence and fees.

3.4 As a result of the decision that such activity was indeed lawful, several licensing authorities identified 'out of area' vehicles trading in their area and took steps to

eliminate such trade. This primarily affected larger cities, but more recently all types of areas have been affected.

- 3.5 The principle of local control is important and a licensing authority will set out its regime to ensure that its statutory obligations to provide a service are met, subject to the specific needs of its area – with the understanding that such vehicles and drivers will trade primarily within that area. For this reason a number of authorities have adopted an ‘Intended Use’ policy. The justification for such a policy was on the grounds of public safety, in that if vehicles are predominantly operating outside of the area where they are licensed then they are not available to be spot checked by officers when carrying out enforcement.
- 3.6 Members were advised that the policy is an attempt by Bridgend to deal with the problem locally and specifically deals with those predominantly trading in other areas. Licensing Enforcement Officers only have powers to deal with vehicles licensed by their own area and as such neighbouring licensing authorities would have to rely on Bridgend Licensing Enforcement Officers to regulate the Bridgend vehicles in their area and this is not practicable.
- 3.7 As a result, Members approved a consultation with the local taxi trade. This took the form of a corporate consultation between 9 December 2016 to 9 January 2017 published on the authority’s website.
- 3.8 The Council received three responses to the website questionnaire, which is attached at Appendix B. The consultation shows that there were three respondents, but only two identified themselves as taxi drivers and there is a variation in the number of questions answered.

Members attention is therefore drawn to the additional comments section. The first response states that it is submitted on behalf of the Bridgend Independent Taxi membership (BIT). The deregulation referred to relates to the Deregulation Act 2015 which made provision to allow a Private Hire Vehicle Operator to sub-contract a Private Hire Vehicle booking to another operator who is licensed in a different licensing district. The proposed policy does not prevent a person living in another borough from applying for a licence to drive or hold a proprietor licence in the Bridgend County Borough Council area. The proposed policy would impact on hackney carriage drivers who intend to trade predominantly outside the Bridgend County Borough Council areas for a substantial amount of time, and it appears that the purpose of the legislation and public safety wil be compromised. E.g. a vehicle spending a substantial amount of time in another authority area would not be available to be spot checked by officers carrying out enforcement. Alternatively, enforcement officers in an area where a vehicle is remotely trading would not be able carry out any immediate enforcement action if they discover a transgression.

- 3.9 The Council also received separate email responses from Mr Dario Nelson on behalf of BIT Partners which is stated to represent Bridgend independent taxi drivers. At present this group has not yet been formally recognised as representative of the taxi trade in the County Borough.

Copies of Mr Nelson's emails are detailed in Appendix C. The organisation BIT does appear to have contributed to the consultation process and as requested at point 9 of the email, additional comments are being included in the report to this Committee.

The trade has been contacted with a view to re-establishing a Taxi Forum so that trade representatives may meet to discuss issues of concern.

- 3.10 The Intended Use Policy is based on the template provided by the Directors of Public Protection Wales (DPPW) which is approved for use by Welsh local authorities.

#### **4. Current situation / proposal.**

- 4.1 Bridgend County Borough Council currently has no policy in place to deal with intended use/ remote trading.
- 4.2 An analysis of the current drivers and vehicles licensed in Bridgend has found there are drivers from outside areas and there have been reports of Bridgend Hackney Carriages remotely trading in Birmingham.
- 4.3 A number of Welsh authorities have also adopted Intended Use policies as a result of identifying that their hackney carriage vehicles were remotely trading in areas such as Bristol.
- 4.4 It is proposed that an 'intended use/ remote trading policy' be introduced. Similar policies have been introduced in The Vale of Glamorgan and The City of Cardiff, the introduction of this policy will help to harmonise policy across the Shared Regulatory Service.
- 4.5 The Intended Use Policy is detailed in Appendix A. This policy is based on the template provided by the Directors of Public Protection Wales (DPPW) which is approved for use by Welsh local authorities.

#### **5. Effect upon Policy Framework& Procedure Rules.**

- 5.1 None

#### **6. Equality Impact Assessment**

- 6.1 There are no equality implications arising from this report.

#### **7. Financial Implications.**

7.1 None. It is envisaged that any partnership work between neighbouring authorities will not significantly increase workload. However, any increase from current resources will be met from fee arrangements.

**8. Recommendation.**

8.1 It is recommended that Committee:

- (i) approve the adoption of the Intended Use/Remote Trading Policy as set out in Appendix A to take effect on 8 March 2017.

**P A Jolley**  
**Corporate Director Operational and Partnership Services**

**1 March 2017**

**Contact Officer:** Daniel Cook  
Licensing Policy Officer

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**Background documents**

Newcastle City Council v Berwick-upon-Tweed attached  
DPPW Intended use policy for the licensing of hackney carriages  
Consultation responses

Cyngor Bwrdeistref Sirol



## Bridgend County Borough Council

### 'Intended Use'/Remote Trading of Hackney Carriages Policy

Date: 7<sup>th</sup> March 2017

## **1      Introduction**

- 1.1 The purpose of this policy is to set out how Bridgend County Borough Council will ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the Declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].
- 1.2 The Council will determine each application on its merits, but will place public safety above all other considerations, seeking to maintain local control in respect of its licensed fleet.

## **2      Applications for the new grant of a hackney carriage licence**

- 2.1 Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the administrative area of Bridgend County Borough Council under the terms of the licence for which an application is being made.
- 2.2 There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within Bridgend County Borough will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.
- 2.3 Even where an applicant intends to ply for hire entirely or predominantly in Bridgend County Borough, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

## **3      Applications for the renewal of a hackney carriage licence**

- 3.1 Section 60 of Local Government (Miscellaneous Provisions) Act 1976 gives the Council a broad discretion to refuse to renew a licence for any reasonable cause and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

#### **4 Applications for the transfer of a hackney carriage licence**

- 4.1 Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he/she has a bona fide intention to ply for hire within Bridgend County Borough. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give an authorised officer information which may reasonably be required for the purpose of carrying out their functions under the legislation. Where there is a failure to provide requested information, in addition to its powers under section 73, the Council may give consideration to exercising its powers to suspend the licence under section 60 of the 1976 Act until such information is forthcoming.
- 4.2 New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within Bridgend County Borough under the terms of the licence in respect of the vehicle being transferred.
- 4.3 If the new proprietor of a licensed hackney carriage is found to have no intention to ply for hire entirely or predominantly within Bridgend County Borough and/or intends to trade in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration will be given to suspend or revoke the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from Bridgend County Borough there will be a presumption that his licence will be revoked. However, each case will be decided on its merits.

#### **5 Applications for the replacement of a hackney carriage licence**

- 5.1 When a proprietor replaces a licensed vehicle, they will be asked to inform the Council of their intended use of the new vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within Bridgend County Borough will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in Bridgend, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

- 5.2 Where a licence has been granted under the terms that the applicant Intends to ply for hire entirely or predominantly within Bridgend County Borough but is subsequently found not to be plying for hire entirely or predominantly in Bridgend and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) there will be a presumption that the licence will be revoked.

## **6      Exceptional circumstances**

- 6.1 Each application will be decided on its merits. However, the requirement that applicants ply for hire entirely or predominantly within Bridgend County Borough and do not trade in another authority's area for a substantial amount of time will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

## Intended use policy for hackney carriages (taxis)

This report was generated on 10/01/17. Overall 3 respondents completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

The following charts are restricted to the top 12 codes. Lists are restricted to the most recent 100 rows.

**Are you a licensed operator or the owner/.driver of a Bridgend licensed vehicle? Please select one option only.**

Operator (-)

Owner (-)

Driver (2)  100%

**Will the proposed policy impact on your business practice? Please select one option only.**

Yes (2)  67%

No (-)

Not applicable (1)  33%

**Are you in favour of the proposal to introduce an intended use policy for hackney carriages in Bridgend County Borough? Please select one option only.**

Yes (1)  33%

No (2)  67%

**Please provide any additional comments:**

With deregulation job security is important where ever you work, People should be entitled to travel and work in other boroughs like all other industries. private hire is part of what taxis do. For and on behalf of BIT

Work is difficult and like premier taxis I have been invited to travel to bridgend for work, I live outside the borough as a taxi driver with limited hours paid me and therefore can travel to Bridgend to service the public and earn money as a mini bus driver also. I understand that my application for a badge asks if I have others and other councils have the power to enforce any action against me should I breach licensing conditions. It would be unfair to restrict me and discriminate against me because I also work or live in another borough. The proposal would effectively discriminate even part time drivers wanting part time work in the borough with the option and intention to even work full time at times. To restrict the use would have harmful consequences to a system that already works with drivers working 2 Or 3 or 4 or 5 or 6 or even one day a week shifts predominantly. People should have the right to have badges dual to earn a living as a taxi driver.

Intended use policy for hackney carriages (taxis)

**Do you currently live in Bridgend County Borough? Please select one option only.**Yes (2)  67%No (1)  33%**Please select an age category. Please select one option only.**

Under 18 (-)

18 - 24 (-)

25 - 34 (-)

35 - 44 (1)  33%45 - 54 (1)  33%

55 - 64 (-)

65+ (1)  33%

Prefer not to say (-)

**Do you have a caring responsibility for a child / children (i.e parent, grandparent, carer etc)? Please select one option only.**

Yes (-)

No (-)

**What age(s) are they? Please select all that apply.**

0 - 5 years old (-)

6 - 11 years old (-)

12 - 16 years old (-)

17+ (-)

Intended use policy for hackney carriages (taxis)

**Do you consider yourself disabled? Please select one option only.**Yes (1)  33%No (2)  67%

Prefer not to say (-)

Please indicate below the type of impairment which applies to you. Please select all options that apply. (Please indicate below the type of impairment which applies...)

 100%

Are you happy to answer a few more questions about yourself? Please select one option only.

Yes (3)  100%

No (-)

What is your date of birth? (DD/MM/YYYY)

 100%

Intended use policy for hackney carriages (taxis)

**How would you describe your nationality? Please select one option only.**Welsh (2)  67%

English (-)

Scottish (-)

Northern Irish (-)

British (1)  33%

Other (please type in the box below) (-)

Prefer not to say (-)

**What is your ethnic group? Please select one option only.**White (1)  33%

Mixed / multiple ethnic groups (-)

Asian or Asian British (2)  67%

Black / African / Caribbean / black British (-)

Other ethnic group (please type in the box below) (-)

Prefer not to say (-)

**White**Welsh / English / Scottish / Northern Irish / British (1)  100%

Irish (-)

Gypsy (-) 

Irish Traveller (-)

Any other white background (please type in the box below) (-)

Intended use policy for hackney carriages (taxis)

**Mixed / multiple ethnic groups**

White and black Caribbean (-)

White and black African (-)

White and Asian (-)

Any other mixed / multiple ethnic background (please type in the box below) (-)

**Asian or Asian British**Indian (1)  50%Pakistani (1)  50%

Bangladeshi (-)

Chinese (-)

Any other Asian background (please type in the box below) (-)

**Black / African / Caribbean / black British**

African (-)

Caribbean (-)

Any other black / African / Caribbean background (please type in the box below) (-)

**Other ethnic groups**

Arab (-)

Any other ethnic group (please type in the box below) (-)

Prefer not to say (-)

Intended use policy for hackney carriages (taxis)

**What is your religion or belief? Please select one option only.**

No religion (-)

Christian (1)  33%

Buddhist (-)

Hindu (-)

Jewish (-)

Muslim (2)  67%

Sikh (-)

Other (please type in the box below) (-)

Prefer not to say (-)

**What is your gender? Please select one option only.**Male (3)  100%

Female (-)

Other (-)

Prefer not to say (-)

**Is your gender the same now as that which you were assigned at birth? Please select one option only.**Yes (2)  100%

No (-)

Prefer not to say (-)

**Are you pregnant? Please select one option only. (Are you pregnant? )**

Yes (-)

No (-)

Prefer not to say (-)

Intended use policy for hackney carriages (taxis)

**Have you given birth within the past 26 weeks? Please select one option only. (Have you given birth within the past 26 weeks? )**

Yes (-)

No (-)

Prefer not to say (-)

**What is your sexual orientation? Please select one option only.**

Heterosexual / straight (3)

100%

Gay man (-)

Gay woman / lesbian (-)

Bisexual (-)

Other (-)

Prefer not to say (-)

**What is your marital status? Please select one option only.**

Single (-)

Partnered (-)

Married (3)

100%

Civil partnered (-)

Divorced (-)

Widowed (-)

Prefer not to say (-)

**Are you a carer? Please select one option only.**

Yes (-)

No (3)

100%

Prefer not to say (-)

## Intended use policy for hackney carriages (taxis)

**Are you able to...****Please select one option per row. (speak Welsh?)**Not at all (1)  33%A little (1)  33%

Fairly well (-)

Fluently (-)

Prefer not to say (1)  33%**Are you able to...****Please select one option per row. (read Welsh?)**Not at all (1)  33%A little (1)  33%

Fairly well (-)

Fluently (-)

Prefer not to say (1)  33%**Are you able to...****Please select one option per row. (write Welsh?)**Not at all (2)  67%

A little (-)

Fairly well (-)

Fluently (-)

Prefer not to say (1)  33%

## Appendix C

Cook, Daniel P

**Subject:** FW: 08/02 TAXI and not private hire vehicle

**From:** [REDACTED] Council [REDACTED]  
**Sent:** 08 February 2017 14:53  
**To:** Cook, Daniel  
**Cc:** Cllr Pete Foley  
**Subject:** 08/02 TAXI and not private hire vehicle

## The proposal

This proposal will primarily affect applicants for new hackney carriage licences; applicants will be expected to demonstrate a bona fide intention to ply for hire within the administrative area of Bridgend County Borough Council under the terms of the licence for which an application is being made.

There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within Bridgend County Borough will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.

Further to my previous email 02/02 for which no reply has been provided to date, I must clarify this proposal listed on council website.

So it may be clear: if anyone applies for a taxi (Hackney Carriage) license it is done on the basis that they are only permitted to ply for hire in the Borough licensed in. Therefore it is already understood in law that a taxi cannot ply for hire in any other borough other than the borough it is licensed in. It is therefore illegal to ply for hire elsewhere and therefore a taxi can only predominately and entirely ply for hire in Bridgend Borough. Thus making the proposal not a bona fide proposal in essence or in wording as outlined above.

**Cook, Daniel P**

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**Subject:** FW: Bridgend Taxi Forum

**From:** [REDACTED] Council [REDACTED]  
**Sent:** 10 February 2017 16:49  
**To:** Cook, Daniel  
**Cc:** Cllr Pete Foley  
**Subject:** RE: Bridgend Taxi Forum

Good afternoon Daniel Cook

Let the committee note:

Further to my last email.

I would like to say that it has taken me much time to familiarise myself and thus get a broad perspective on the intended use policy for Hackney Carriage. I use the word I, as like many drivers who predominantly work in Bridgend, I was not familiar with the policy adopted by many councils to date over the last 4 years. Bridgend in fact being much behind the times on this policy introduction.

From my research which has taken me some 4 weeks to get acquainted with this policy in order to get a balanced view; From what I see in reality it serves a purpose and makes enforcement easier for councils but does not get away from the fact that councils can talk to each other if they want to. One council being Carmarthenshire explained such a scenario today when asked about their intended use policy and experiences.

The good thing about a consultation generally is it gives the public and the trade time to understand and make comment on any proposals.

In this case of Bridgend borough, we were never afforded such practices and therefore alarm bells naturally go off when one discovers late in the day or the 11th hour without time to understand the proposal in full and the underlying reasons for it. For sure it is a national trend for this intended use policy/proposal. Times in the trade are changing and it is possible that in time this policy maybe redundant. But I cannot predict what is around the corner.

When I examine other areas including Manchester and Sheffield as well as Greater London, it becomes clearer for the reasoning behind the intended use policy, as taxi drover flock to those areas. With further research I understand that trade members in other boroughs have been afforded good opportunity in consultation to examine and make comment on such a proposal.

As it stands the whole subject of deregulation has and still is very controversial for many in the trade as well as MP's in some areas of the country. My research shows an active petition with some 11,000 signatures thus far falling short of the 100,000 needed by April this year.

The nature of the business is such that a taxi will drift into other territories and therefore an obvious concern if one does not want to fall foul of such a policy. As a result questions have been raised to clarify best practices for the driver or owner of the vehicle to ensure harmony going forward for all concerned including the borough of Bridgend.

I fail to understand why the council would wish to exclude the trade in consultation when other boroughs don't. In some cases the trade ask for a stay in the consultation process so they can better understand and gauge responses.

It has been my job to continue to seek proper conditions going forward based on The Department of transport best guidance for licensing. That in our opinion is a very good yard stick.

1. As 3 Partners we believe that it serves no purpose for the council to cheat the process because they can, and then report false occurrences relating to consultations. A practice that at the very least does not occur in England from what I understand.

2. We also feel that it is time for there to be a better working relationship with the trade/drivers so we are aware of what's new and how we can establish a level of communication that does not leave the trade in the dark as it has been at the very least this time around in at least two Boroughs.

3. It would have been easy to have contacted at least the 2 Partners in December or prior relating to this intended use policy proposal. I note you did not do that even though you did put your hand out by supplying your email address and making contact on other matters. Easy it would have been to let us know. In fact it would have been just as easy to send literature to all taxi drivers informing them of the same and then they could of planned to attend the meeting and then you would have had the opportunity to explain all and get the appropriate responses for your report and more.

4. At the moment we remain in limbo as to why we are left out so obviously. For which we still await a full explanation for the record to show. As per previous email contact recently.

5. Fares are still on the table without any progress on the subject. Why? We still remain 319th with a low minimum fare over 2 miles @ £4.90. Lower than the Vale and Cardiff which are both under your jurisdiction.

6. As stated previously it is important that communication and progress remain on the agenda until such time the channels are opened up for resolution and understanding going forward. It is only fair under the circumstances so there is no doubt in anyone's mind.

7. There is certainly a stain or foul taste left in our mouths as a result of the lack of progress on simple issues. From the outset this was forecasted in a survey carried out via members in the trade. One must say it is disappointing to confirm this fact to be still the case.

8. It would not be correct for licensing to realise we exist and then obviously ignore the trade and BIT or any individual/driver

9. It would therefore be more appropriate to include this email as part of the process when reporting to committee for the 7th of March meeting, rather than the email you mention written to you in January by BIT at the time, which really gave us no real time to compile accurately with no time to assess the situation based on facts and trends in the country overall.

10. At this time our work remains unfinished until the issues mentioned are discussed and resolved.

11. We still await explanation for being left out and ignored.

12. I read on the council website that the report was to be released on 06/02/17 but as yet I have not seen it.

13. I did read that "The Best practice for licensing" could be put into legislation. However my research at this time is incomplete as I seek further advice on the suggestion as well as feedback. I/we would certainly like an indication as to why the council would want to disregard key elements used in the guidance used by other cities/areas around the country to enable them to perform satisfactorily and objectively.

14. In reality we are not asking for much overall based on guidance offered and practices already adopted by others in licensing.

15. We are not here to hinder but more to compliment the process or processes. But never the less should not be ignored or left out even when making simple requests.

16. Such was the lack of consultation that I was confused as to how many proposals were on the table. Turns out effectively there were 2.

We look forward to your response so a resolution can be sought on the matters contained in this email for a better understanding going forward, so we can all reach that level of communication much needed at this time for absolute clarification going forward.

Yours sincerely

D.Nelson

For and on behalf of the partnets for BIT and their data protected members of the taxi trade.

Cc: Madaline Moon MP

Cc: councillor Peter Foley

Cc: BIT Members

# Agenda Item 5

## BRIDGEND COUNTY BOROUGH COUNCIL

### REPORT TO LICENSING COMMITTEE

7 MARCH 2017

#### REPORT OF THE CORPORATE DIRECTOR OPERATIONAL AND PARTNERSHIP SERVICES

#### HACKNEY CARRIAGE METER & EQUIPMENT SPECIFICATION

##### **1. Purpose of Report.**

- 1.1 To consult on a proposal to introduce a condition into the hackney carriage meter and equipment specification requiring the annual testing of the fitted taximeter.
- 1.2 To obtain Committee approval to invite and establish an approved list of taximeter testers in order to facilitate annual testing of the taximeter.
- 1.3 To approve a condition to be inserted into the current vehicle conditions with effect from 8 March 2017 to state that GPS taxi management & dispatch systems cannot be used as taximeters.

##### **2. Connection to Corporate Improvement Objectives/Other Corporate Priorities**

- 2.1 The proposals are necessary to enable the Council to discharge its functions as a taxi licensing authority.

##### **3. Background.**

- 3.1 The Council is the licensing authority for hackney carriage vehicles by virtue of the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The authority sets licence conditions that must be complied with for a vehicle licence to be granted.
- 3.2 The Bridgend County Borough Council hackney carriage byelaws require all hackney carriages to be fitted with a taximeter.
- 3.2 Taximeters are devices for registering the fare of a journey based on a combination of the distance travelled and waiting time. Taximeters are predominately electronic computing devices which measure distance using a transponder to convert vehicle movement to distance travelled and displays a constantly updated fare for the journey showing how much the hiring is costing. The licensing authority is responsible for setting the maximum fare that a hackney carriage driver can charge for any journey within Bridgend County Borough and the taximeter must be set accordingly. As required by the Hackney Carriage Byelaws for Bridgend, hackney carriage vehicles must be equipped with a taximeter which must be used when a passenger hires the vehicle.

- 3.3 The use of a taximeter has advantages for both the driver and passenger. The display of the fare clearly indicates to the passenger what the fare will be and the driver does not have to manually calculate the fare. The fare charged is therefore transparent and clear and assists in minimising disputes. Members of the public rely on licensed vehicles to transport them throughout the County Borough and it is important that they can rely on the accuracy of the fitted taximeter.
- 3.4 Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 gives power to any authorised officer of the Council or any constable to inspect and test, for the purpose of ascertaining its fitness, any taximeter fitted to a hackney carriage.
- 3.5 The Measuring Instruments (Taximeters) Regulations 2006 came into effect on 30th October 2006. These regulations implement the EU Measuring Instruments Directive (MID) in relation to taximeters. All taximeters must comply with these regulations and be approved by a notified body designated by the Secretary of State. It is an offence under Regulation 4(2) to place on the market, and put into use, a taximeter that does not comply with the regulations and which has not been Authorised by a notified body; (notified bodies are those designated by the Secretary of State as persons /organisations that meet the notified body criteria).
- 3.6 In recent years there has been a rise in the use of Global Positioning Systems (GPS) to measure fares in licensed vehicles. This system comprises of an office based central dispatch system linked to a mobile data terminal in the vehicle using GPS. The mobile data terminal is similar to a satellite navigation terminal, but also includes a taximeter function.
- 3.7 GPS systems are used by operators to manage and dispatch vehicles to customers and can also be used to calculate the fare for the journey. However, whilst new technology is welcomed, no GPS system complies with the requirements of the Measuring Instruments (Taximeters) Regulations 2006 and therefore cannot be used as a taximeter.

#### **4. Current situation / proposal.**

- 4.1 Hackney carriages in Bridgend are not currently required to have their taximeter periodically tested.
- 4.2 It is proposed that the following condition be inserted into the meter and equipment specification section of the hackney carriage conditions.

*"All hackney carriages must be fitted with a taximeter of approved design, properly sealed and tested and all such taximeters must be kept in good repair and proper working order clearly visible to all passengers without affecting passenger comfort or infringing construction and use regulations.*

*The fitted meter shall be calibrated to include only Bridgend County Borough Council tariffs applicable to the number of passengers permitted in that vehicle.*

*The proprietor shall produce annually to the Licensing Authority a certificate issued by a taximeter installer/tester approved by the Licensing Authority stating that the meter is accurate and contains only the current Bridgend County Borough Council hackney carriage tariff."*

- 4.3 This proposed new condition will provide a robust process for ensuring taximeters are set to the correct Bridgend tariff, helping to maintain public trust that the fare charged on the meter is correct.
- 4.4 As stated in paragraph 4.2, it proposed that vehicle proprietors will produce a certificate annually to show that the taximeter is accurate and only contains the Bridgend County Borough Council hackney carriage tariff. It is therefore proposed that the licensing section invite and establish a list of approved taximeter testers.
- 4.5 As stated in paragraph 3.5 all taximeters must comply with the requirements outlined in The Measuring Instruments (Taximeters) Regulations 2006. There are currently no GPS systems on the market that comply with these regulations.
- 4.6 It is proposed that a condition is added to the hackney carriage vehicle licence conditions clarifying the current legal status of GPS taxi management and dispatch systems. Below is the proposed condition

*"A GPS taxi management & dispatch system consisting of a mobile data head and a central dispatch system may be fitted in accordance with the manufacturer's instructions. The GPS system is not a taximeter. It can be used alongside the vehicle's approved taximeter but must not replace it."*

- 4.7 The proposal will require consultation with the trade, and as this matter is trade specific, the consultation will be by letter to all existing proprietors.

## **5. Effect upon Policy Framework & Procedure Rules.**

- 5.1 None

## **6. Equality Impact Assessment**

- 6.1 There are no equality implications arising from this report.

## **7. Financial Implications.**

- 7.1 It is not envisaged that there will be any financial implications for the authority.

## **8. Recommendation.**

- 8.1 It is recommended that Committee:

- (i) Approve a consultation with the trade on the proposed amendments to the conditions relating to the hackney carriage meters and equipment by way of letter to proprietors.
- (ii) Approve the request to invite contractors to be considered for the approved list of taximeter testers
- (iii) To approve that the following condition be inserted into the current vehicle conditions with effect from 8 March 2017.

*"A GPS taxi management & dispatch system consisting of a mobile data head and a central dispatch system may be fitted in accordance with the manufacturer's instructions. The GPS system is not a taximeter. It can be used alongside the vehicle's approved taximeter but must not replace it."*

- (iv) Note that a further report will be presented to deal with any consultation responses and to set an approved list of taximeter testers, together with an implementation date for the new requirements for meter calibration.

**P A Jolley**  
**Corporate Director Operational and Partnership Services**

**1 March 2017**

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Licensing Policy Officer

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Vale of Glamorgan Council  
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#### **Background documents**

Bridgend County Borough Council hackney carriage byelaws