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25 May 2012

S U M M O N S

MEETING: Licensing Board
DATE: 6 June 2012
TIME: 6.00pm
PLACE: Council Chamber, Town Hall, Gosport
Democratic Services contact: Lisa Young

LINDA EDWARDS
BOROUGH SOLICITOR

MEMBERS OF THE BOARD

The Mayor (Councillor Dickson) (ex officio)
Chairman of P & O Board (Councillor Hook) (ex officio)

Councillor Beavis (Chairman)
Councillor Allen (Vice Chairman)

Councillor Ms Ballard	Councillor Jacobs
Councillor Carter C K	Councillor Mrs Morgan
Councillor Mrs Cully	Councillor Murphy
Councillor Ms Diffey	Councillor Scard
Councillor Hazel	Councillor Mrs Wright

FIRE PRECAUTIONS

(To be read from the Chair if members of the public are present)

In the event of the fire alarm sounding, please leave the room immediately. Proceed downstairs by way of the main stairs or as directed by GBC staff, following any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

IMPORTANT NOTICE:

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

NOTE:

- i. Councillors are requested to note that, if any Councillor who is not a Member of the Board wishes to speak at the Board meeting then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off for the duration of the meeting.

AGENDA

RECOMMENDED
MINUTE
FORMAT

PART A ITEMS

1. APOLOGIES FOR NON-ATTENDANCE
2. DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.

3. MINUTES OF THE MEETINGS OF THE BOARD HELD 3 APRIL 2012 AND 16 MAY 2012 [copies herewith].

4. DEPUTATIONS – STANDING ORDER 3.5

(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Thursday 31 May 2012. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).

5. PUBLIC QUESTIONS – STANDING ORDER 3.6

(NOTE: The Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Thursday 31 May 2012).

6. PERMIT TAXIMETERS IN PRIVATE HIRE VEHICLES

Part II

This report identifies a request to change Gosport Borough Councils Hackney Carriage and Private Hire Conditions Private Hire Conditions to permit taximeters to be installed in Private Hire Vehicles

Russell
Bray
Ext 5553

7. THE REVISED JOINT STATEMENT OF PRINCIPLES ISSUED UNDER THE GAMBLING ACT 2005

Part II

Report to follow.

8. ANY OTHER BUSINESS

Board/Committee:	Licensing Board
Date of Meeting:	6 th June 2012
Title:	Permit Taximeters in Private Hire Vehicles
Author:	COMMUNITY AND CUSTOMER SERVICES MANAGER
Status:	FOR DECISION/ FOR RECOMMENDATION TO

Purpose

As the licensing authority for Hackney Carriage and Private Hire drivers and vehicles, this council is able to apply reasonable conditions to the licences that it grants. This report identifies a request to change Gosport Borough Councils Hackney Carriage and Private Hire Conditions Private Hire Conditions to permit taximeters to be installed in Private Hire Vehicles

Recommendation

The conditions applied by this Council to Private Hire Vehicles are amended as indicated in this report. It is recommended that the Licensing Board removes the condition 35 relating to Private Hire Vehicles that states "There shall not be installed in such vehicles a taximeter " and replace it with conditions allowing a taximeter to be installed in a Private Hire Vehicle.

1 Background

- 1.1 There is no power in under any statute allowing a local authority to set the fares charged by private hire vehicles. It is entirely a matter for negotiation between the hirer and the operator as to the fare that will be charged. However that provision can be limited if a meter is fitted to the vehicle
- 1.2 There is no power that enables a local authority to require a meter to be fitted, but if one is fitted then the meter must comply with Section 71 Local Government (Miscellaneous Provisions) Act 1976
- 1.3 Section 71 Local Government (Miscellaneous Provisions) Act 1976 states :-
 - (1) Nothing in the Act shall require any private hire vehicle to be equipped with any form of taximeter but no private hire vehicle so equipped shall be used for hire in a controlled district unless such taximeter has been tested and approved by or on behalf of the district council for district or any district council by which a vehicle licence in force for the vehicle was issued.
 - (2) Any person who-

- (a) Tamper with any seal on any taximeter without lawful excuse; or
- (b) Alters any taximeter with intent to mislead; or
- (c) Knowingly causes or permits a vehicle of which he is a proprietor to be used in contravention of subsection (1) of this section.

Shall be guilty of an offence.

Section 71 of the Local Government (Miscellaneous Provisions) Act 1976 requires the Local authority to test and approve the taximeter but does not empower the local authority to set a fare.

2 Report

- 2.1 On 10th May 2012 a letter was received from Mr. Philip COX, the Proprietor of "Hardway Cabs", seeking permission to install a meter into a licensed private hire vehicle. Currently in the Gosport Borough Council Hackney Carriage and Private Hire Conditions Revised: July 2008 relating to Private Hire Vehicles condition 35 states, "There shall not be installed in such vehicles a taximeter".
- 2.2 Mr. Philip COX has stated in his letter that if he was granted permission he will calibrate the taximeter installed in his Private Hire Vehicle to the tariff set by Gosport Borough Council for Hackney Carriage taximeters.
- 2.3 Mr. Philip COX has correctly stated in his letter that a Hackney Carriage a taximeter calibrated to the Gosport Borough Council tariff is the maximum fare that may be charged for a journey. The taximeter will be positioned in the vehicle to be in full view of the customer and displays the updating tariff through out the journey.
- 2.3 Mr. Philip COX is the Proprietor of Hardway Cabs and currently operates one licensed Private Hire Vehicle. He has applied to the Local Authority to become a Private Hire Operator in his own right and operate under the trade name "Hardway Cars".
- 2.4 Mr. Philip COX has correctly stated that Portsmouth, Fareham, and Southampton permit taximeters in Private Hire Vehicles. There is no legal or operational reason why Private Hire Vehicles licensed by this Council cannot be approved to be equipped with taximeters. Provided the Gosport Borough Council Hackney Carriage and Private Hire Conditions, as amended, will be complied with at all times.

3 Risk Assessment

- 3.1 It is important to ensure that this Council only licences vehicles that are safe and fit for the purpose of operating as Private Hire Vehicles.

- 3.2 In order to ensure the safety of the travelling public conditions imposed by this council must be appropriate and relevant.
- 3.3 Conditions should not be seen as a barrier to trade.
- 3.4 The adoption of the proposed revised Conditions will better inform the travelling public.

4 Conclusion

- 4.1 If the Licensing Board approves Mr. Cox's request to install a taximeter in his licensed Private Hire Vehicle. The Gosport Borough Council Hackney Carriage and Private Hire Conditions as they apply to Private Hire Vehicles must be revised by the removal Condition 35 "There shall not be installed in such vehicles a taximeter".
- 4.2 The following two new conditions should be inserted into The Gosport Borough Council Hackney Carriage and Private Hire Conditions as they apply to Private Hire Vehicles.

35 Taximeter

A Taximeter, if fitted, must be tested and be of an approved type by or on behalf of the Council.

35 (A) Tariff Card

At all times a tariff card will be clearly displayed, where it can be seen by any passenger, giving the tariff applied by the operator through whom the vehicle is operated

Financial Services comments:	.
Legal Services comments:	The applicant has a right of appeal to the Magistrates' Court in respect of a decision of the licensing board to require any conditions to be attached to the licence.
	The Human Rights Act 1998 The procedures adopted by the Board in determining the application for a Private Hire driver's licence are believed to comply with Article 6, the right to a fair trial. A formal appeal procedure against the Board's determination is provided via the Magistrate's Court.
Service Improvement Plan implications:	None
Corporate Plan:	The application placed before the Licensing Board meets the Strategic Priorities based on the themes of People, Prosperity and the

	Pursuit of Excellence <ul style="list-style-type: none"> ▪ By Attracting investment to Gosport's economy ▪ Maximizing local employment opportunities ▪ Delivering quality services
Risk Assessment:	
Background papers:	Gosport Borough Council Hackney Carriage and Private Hire Conditions Revised: July 2008
Appendices/Enclosures:	
Appendix 'A'	Letter from Mr. Philip Cox dated 8 th May 2012
Appendix 'B'	Page 5 of the Gosport Borough Council Hackney Carriage and Private Hire Conditions Revised: July 2008 relating to Private Hire Vehicles. Showing Condition 35.
Report author/ Lead Officer:	Russell Bray, Senior Licensing Officer Ext 5553

Appendix A

Mr Philip A Cox

Hardway Cabs

Corner Unit

Quay Lane

Gosport

8th May 2012

To- Head Of Licensing

I wish to address the Licensing Board at the meeting on the 6th June 2012 on the following point.

To install a meter into a private hire vehicle.

Condition 35 of Gosport Council Private Hire terms states "There shall not be installed in such a vehicles a taximeter".

However the in Fareham, Portsmouth, Southampton and Eastleigh the council permits both meters and unmetered cars.

Also a meter is the maximum fare that may be charged and therefore it is in full display to the customer from the time they enter the car till the time they leave and this is a fare way to operate.

As there is no power by Gosport Council or any Council to set Private hire fares I feel that by installing a meter I can set this to my company rate which would be in line with that set by Gosport Council meters.

RECEIVED

10 MAY 2012

Appendix A (continued)

Therefore if the board was to grant me to install a meter the meter act would then come into play which states that I would have to set it in line with Gosport Council.

To conclude I operate both Hackney and Private Hire and wish to keep all my fares in line and with the meters being granted to me feel this would also be of benefit to our customers.

A handwritten signature in black ink, appearing to read 'Philip A Cox', enclosed within a large, loopy oval shape.

Philip A Cox

Page 5 of the Gosport Borough Council Hackney Carriage and Private Hire Conditions Revised: July 2008 relating to Private Hire Vehicles. Showing Condition 35.

Licence conditions revised 10/07/08

27. A plate holder shall maintain a record in a form satisfactory to the Council and enter therein the date and time of commencement and cessation of work of each driver each day and shall produce such record on request to any authorised officer of the Council or to the police and shall maintain such records for at least one calendar year.

Taximeters

28. All vehicles must be fitted with taximeters approved by the Public Carriage Office.
29. Any authorised officer of the Council or any constable shall have power to inspect and test for fitness any taximeter affixed to a vehicle. If the officer or constable is not satisfied as to its fitness they may by notice in writing require the proprietor of the vehicle to make its taximeter available for further inspection and testing. In the meantime the vehicle licence will be suspended until such time as the officer or constable is so satisfied.
30. If the authorised officer or constable is not satisfied within a period of two months, the licence shall be revoked. They shall give the proprietor notice of the grounds on which the licence has been revoked within 14 days of that action.
31. Officers carrying out the inspection of taximeters do so as an act of enforcement and shall not be liable to pay any fare.

Private Hire Vehicles

32. "Pre-booking only" stickers, 2.5 centimetres (1 inch) in height, should be displayed on each of the passenger doors.
33. There shall not be displayed on or above the roof of any vehicle any sign, notice, mark illumination or other feature which may suggest that the vehicle is a taxi.
34. The vehicle should not be of such a design and appearance as to lead any person to believe that the vehicle is a taxi (the vehicle designs which come into this category are Metrocab, LTI, Fairway and FX4W). If the Plateholder intends to operate a vehicle other than a saloon car or estate car he/she should first check with the Council's Licensing Officer.
35. There shall not be installed in such vehicles a taximeter.