

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

15 June 2011

Report of the Chief Solicitor

Part 1- Public

Delegated

1 TAXIS UPDATE

1.1 Enforcement

- 1.1.1 On the evening of Friday 13th May a joint taxi enforcement operation was carried out by officers of Tonbridge Police and the Licensing section of the Council. A total of 21 drivers were observed to be carrying out offences of parking on double yellow lines in Waterloo Road, smoking whilst within their vehicle and driving whilst using a non hands free mobile. In keeping with the Taxi and Private Hire Policy penalty points were imposed on the drivers Hackney Carriage Drivers licences. Additionally a total of 15 vehicles were subject to an intense inspection during which drivers were also questioned by officers from DWP and the Borders Agency. It is pleasing that only two minor faults were found one of which was immediately remedied.
- 1.1.2 This exercise formed part of our ongoing enforcement programme, Further evening enforcement will be scheduled over the coming months and it is intended that there will be regular weekly high profile overt enforcement carried out by the Licensing section. In addition to this Civil Enforcement Officers will now report once a week if they observe any traffic infringement where penalty points can be imposed and these reports will be followed up and points issued.
- 1.1.3 This enhanced enforcement has been welcomed by the taxi trade and it is intended that over the coming months a more pro-active working relationship will be established with them.

1.2 Newsletter

- 1.2.1 Since the last meeting of the Committee Licensing Services have also been able to put together the first of what is hoped to be a regular newsletter for the taxi and private hire trade. A copy is attached at Annex 1. The assistance of Mr Terry Hill is appreciated and it is hoped that others from the trade may be prepared to contribute to future editions.
- 1.2.2 The newsletter is part of the ongoing work of the Council to enhance the service. It is hoped that through the various steps which have been taken by the Council and

which are noted in the newsletter, coupled with renewed enforcement efforts, the public will see an improved service and the trade will benefit from a more efficient and flexible system of operation.

1.3 Use of Taximeters

- 1.3.1 For some time questions have been received by Licensing Services about the settings used by hackney drivers for the taximeters which are fitted in all cabs and which show the fare to be charged. The use of the taximeter is governed by the Council's Hackney Carriage and Private Hire Policy and must reflect the tariff set by the Committee. At the time the last tariff was set, earlier this year, a suggestion was made that drivers were confused about how the new tariff should be applied.
- 1.3.2 The Licensing Section reviewed the situation and had discussions with the independent companies who are responsible for calibrating the taximeters. Although no uncertainty in the tariff was found, it became apparent that some confusion did exist and a letter was sent to all drivers and operators informing them that the taximeter could display the word "Hired" when a fare was being carried. The effect was that taxi drivers could be charging for time and distance without any risk of enforcement action by the Council. A copy of the letter is attached as Annex 2.
- 1.3.3 In addition to the information set out in this letter the Committee needs to be aware that the drivers' lack of control over the calibration of the taximeter makes it virtually impossible for the Council to enforce the distance only tariff against an individual driver. If a driver deliberately fails to follow the tariff set by the Council a criminal offence is committed. However, it would be for the Council to prove beyond reasonable doubt that the driver had not accidentally set the taximeter to "Hired" for instance which was the sole cause of a customer being charged a higher fare than the distance allowed. For the majority of journeys the difference on any one individual fare is likely to be too small to be certain that time and distance has been unlawfully charged as opposed to distance only (and that is before an attempt is made to prove that the driver had deliberately caused this to happen). The Committee are asked to note that since this letter was sent in March no complaints have been received from the public about a rise in taxi fares.
- 1.3.4 In view of the practical difficulties of enforcing a distance only tariff the Committee are asked to endorse the action taken by Licensing Services since March in not enforcing the distance only tariff and acknowledge that with immediate effect the tariff should be regarded as one which allows charging for time and distance.

1.4 Going Forwards

- 1.4.1 Meetings with the taxi and private hire trade are planned for July. These meetings will enable the Council to look at progress that has been made in areas such as the new compliance and MOT testing arrangements and to listen to views from those concerned in the Borough on ways in which the service might be improved.

- 1.4.2 The range of fees and charges set by the Council is subject to annual review. These charges will be reported to the appropriate committee in due course.

1.5 Legal Implications

- 1.5.1 None beyond those already identified in the report.

1.6 Financial and Value for Money Considerations

- 1.6.1 None

1.7 Risk Assessment

- 1.7.1 The need to ensure that the taxi trade is properly licensed and monitored is an important function of the Council. This is best achieved by working with the taxi trade where possible, whilst at the same time maintaining an independent and sustainable level of enforcement activity to protect the public and legitimate licensed drivers and operators from the unlawful activities of the minority.

1.8 Equality Impact Assessment

- 1.8.1 See 'Screening for equality impacts' table at end of report.

1.9 Recommendation

- 1.9.1 As noted in section 1.3 the Committee are **recommended** to endorse the action taken by Licensing Services since March in not enforcing the distance only tariff and acknowledge that with immediate effect the tariff should be regarded as one which allows charging for time and distance

Background papers:

contact: Ian Henderson

Nil

Adrian Stanfield
Chief Solicitor

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	N/A	This is an information only paper and no decision is required.

Screening for equality impacts:		
Question	Answer	Explanation of impacts
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	See above
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?	N/A	

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.