



TAXI AND GENERAL COMMITTEE

**MINUTES OF THE MEETING HELD IN THE COUNCIL CHAMBER, PENALLTA HOUSE
ON THURSDAY, 28TH NOVEMBER, 2019 AT 10.00 AM**

PRESENT

Councillor D.W.R. Preece – Chair

Councillors:

J. Bevan, P.J. Bevan, W. David, M. Davies, Ms J. Gale, D.C. Harse, J. Ridgewell,
J.E. Roberts, R. Whiting

Together with:

J. Morgan (Trading Standards, Licensing and Registrars Manager), L. Morgan (Licensing
Manager), S. Mock (Solicitor), R. Barrett (Committee Services Officer)

Also present:

Mr C. Bundy (Caerphilly County Borough Taxi Drivers Association)

1 TO RECEIVE APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors D. Cushing, K. Etheridge, Mrs D. Price,
J. Simmonds (Vice-Chair) and W. Williams.

2 DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of
the meeting.

3 MEDICAL FITNESS TEST FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS

The Licensing Manager presented the report, which had been prepared following a Member's
request, and outlined the process and rationale used by other authorities in Wales for applying
grandfather rights to existing licensed drivers when changing from Group 1 to Group 2
medical standards.

Members were reminded that under current Caerphilly Council policy, the process to
determine the 'fit and proper' person status of prospective or existing licensed taxi drivers

includes a requirement to provide a Group 2 medical. Responsibility for determining the medical standard to be applied to taxi drivers rests with the Local Authority, and current best practice advice is that this should be the DVLA Group 2 standard. This requirement was approved by the Licensing Committee on 28th May 2015, when the Authority amended its position from a Group 1 to Group 2 medical requirement and became effective from 1st July 2015.

The Licensing Manager explained that this decision was taken in order to bring the authority into line with the majority of authorities in England and Wales and Department of Transport best practice guidance. 96% of licensing authorities in England base the medical fitness assessment on the DVLA Group 2 standard. Consequently, all new taxi drivers are required to provide a Group 2 Medical as part of the application process, whilst existing taxi drivers are required to provide a Group 2 Medical at their next medical due date. Members were advised that Caerphilly Council currently has 465 licensed drivers, and that at the time of the report, 338 drivers (72.7%), already meet the Group 2 medical standard, with the remaining 127 drivers being subject to the Group 2 standard when their next medical due date is reached.

At the previous meeting of the Taxi and General Committee on 23rd September 2019, a Member requested a report on how some authorities in Wales had issued grandfather rights to existing drivers when introducing the Group 2 standard. By way of clarification, the Licensing Manager explained that grandfather rights are a provision in which an old rule continues to apply to some existing situations while a new rule will apply to all future cases.

During preparation of the report, the Licensing Department made a request to all authorities across Wales for information on the type of medical standard applied, and also asked if grandfather rights were given to existing drivers for those that increased their standard from Group 1 to 2. The response indicated that 18 of the 22 authorities in Wales currently require drivers to meet the Group 2 DVLA Medical standard. Information on whether or not grandfather rights was provided was received for 12 local authorities. To date, Caerphilly Licensing Officers are only aware of two authorities who gave such rights to existing drivers, namely Powys and Swansea Councils.

It was found during the course of enquiries that many authorities increased to the Group 2 medical standard so long ago that current staff do not have any knowledge of the change process. Both Powys and Swansea Councils have been approached concerning their decision to allow grandfather rights for existing drivers. However, in view of the time elapsed and changes in personnel since implementation (2004 in Swansea and 2008 in Powys) neither local authority could assist with the grounds for this decision.

Records for Powys County Council's Licensing Committee show that on 19th July 2008, it was agreed that the Group 1 standard would be the basic medical test for existing licence holders and that the Group 2 standard of fitness would be required for new applicants and previous licence holders that had allowed their licence to lapse. The minutes of the meeting do not give any detail as to why that decision was made, Officers involved at the time have retired, and current personnel do not have any information on the rationale for the decision.

It is understood that Swansea Council introduced changes in their medical requirements in 2004 and it is believed gave grandfather rights for existing licensed drivers to be assessed against Group 1 and new applicants against the Group 2 standard. Swansea Council were unable to locate any records or minutes and no current personnel have any knowledge of the change or rationale for the change as it was so long ago.

The Committee were asked to note that comments of Authorities which did not permit grandfather rights in relation to existing drivers referred to the local authorities' responsibility to protect public safety and the potential of creating a double standard, if existing drivers were allowed to remain under the provisions of a Group 1 medical, whereas new drivers had to provide a Group 2 medical. In conclusion, the report stated that the grounds or rationale for permitting grandfather rights in Swansea and Powys local authority areas are unclear in view

of the time that has elapsed since implemented and changes in personnel over time.

Mr Chris Bundy of the CCBTDA then was invited to address the Committee and make his representations regarding the report. Mr Bundy referred to a number of key points contained in the report and responded to these in turn. He added that his responses had been verified by the National Private Hire and Taxi Association.

Mr Bundy stated that although current best practice advice is for the Group 2 medical standard to be applied to taxi drivers, this is for guidance only and can be deviated from at the discretion of the Local Authority. He explained that he knew of 3 authorities in Wales that used the Group 1 standard and 2 others that gave grandfather rights in respect of Group 2. Mr Bundy also stated that the report had not identified how many drivers had lost their licence and livelihoods through being unable to meet the requirements of the Group 2 medical, and that the report placed an emphasis on licensing policy in England, rather than Wales as per the Member's request.

Mr Bundy referred to the responses received from the other local authorities across Wales in respect of the medical standard applied. He claimed that in addition to Powys and Swansea Councils, a further three Welsh authorities had adopted the Group 1 standard, and that another two authorities had made alterations to their Group 2 policy. Mr Bundy also stated that there would have been valid reasons for Powys and Swansea Councils providing for grandfather rights for the drivers and that the lack of change in their respective policies since that time demonstrated that the current system in respect of medical fitness was clearly working for these authorities.

Mr Bundy made reference to the use of Section 19 licenses by PSV drivers and highlighted the disparity between the fitness criteria for these drivers when compared to taxi drivers. He also outlined the concerns of the CCBTDA in respect of the age requirements for medicals, explaining that if a new driver is aged 21, there would be a 24-year gap between their medical upon application and the next compulsory medical at the age of 45, and that the general health of an individual has the potential to significantly change during that period. He stated that the CCBTDA would wish to see a medical introduced on a 3-yearly basis for drivers of all ages in the interest of public safety. Mr Bundy also highlighted concerns around the ability for drivers to use any GP of their choice when acquiring a medical certificate.

Mr Bundy commented on the equalities, financial and personnel sections of the report, stating that the current policy had no regard for equality across drivers, had led to drivers suffering financial hardship, and had given no regard for the personal circumstances of drivers.

In closing, Mr Bundy asked the Committee to take into account the policy situation across Wales, not England, and appealed to Members for the standard to be reverted to the Group 1 medical requirement. He also asked for the medical requirement to be increased to every 3 years and for a requirement to be placed on drivers to gain this certificate from their family practitioner, so that the doctor has the complete medical history of the driver to hand. Should the Committee not be minded to revert to the Group 1 standard, Mr Bundy asked that Members consider reinstalling Group 1 grandfather rights for existing drivers, and reiterated the hardships being faced by many drivers who are unable to meet the Group 2 requirements and cannot obtain alternative work in another profession.

Mr Bundy was thanked for his representations and questions were then invited from the Committee on the contents of the report.

A Member sought clarification on the background for the decision by the Licensing Committee to change the medical requirement from the Group 1 to Group 2 standard in 2015. The Licensing Manager referred the Committee to the report prepared at that time and explained that in 2015, Caerphilly Council was different to many other local authorities across Wales in that a lower threshold of medical standard was required for taxi licenses. Arising from Department of Transport best practice guidance, a report was brought to the Licensing

Committee on 28th May 2015 which asked Members if they wished to retain the Group 1 standard or introduce a more stringent Group 2 standard. The Committee subsequently determined by a majority vote to introduce the Group 2 standard as the pre-requisite medical standard for licensed drivers. One Member asked for a copy of the 2015 report to be provided to him following the meeting.

A Member asked how many taxi licenses had been surrendered across the county borough since the introduction of the Group 2 standard. The Licensing Manager explained that he did not have the information to hand but could arrange to circulate this following the meeting.

The Licensing Manager acknowledged the points raised by Mr Bundy and confirmed that there were questions around the use of practitioners other than the driver's family GP to gain a medical certificate. He stated that going forward, there could be potential to bring a further report to the Committee which would address some of the concerns raised by the CCBTDA and place more conditions on Group 2, either by the use of the driver's own GP or a proviso that any other practitioner issuing a Group 2 medical certificate must be able to access the driver's complete medical history. With regards to the gap between medicals at ages 21 and 45, the Licensing Manager explained that a future report could examine the potential to introduce a shorter period of time between the two medicals.

The Committee asked if there was any evidence to support Mr Bundy's claim that local authorities other than Powys and Swansea Councils are operating to the Group 1 standard. The Licensing Manager explained that three local authorities applied the Group 1 medical requirement, and that other authorities may have made modifications to their policy but that the Group 2 medical standard was the base requirement. In response to another Member's query, he explained that there was no information to suggest that some local authorities had reverted from the Group 2 to Group 1 requirement.

A Member enquired as to the number of drivers who were unable to meet the Group 2 criteria. The Licensing Manager stated that he was aware of two such instances, but confirmed that he would arrange to collate this information and circulate to Members following the meeting. He also referred to the points raised by Mr Bundy in relation to financial hardship for drivers, and reminded Members that the overriding consideration for the local authority when issuing taxi licenses must be the upholding of public safety, and financial circumstances in respect of individual drivers cannot be taken into account.

Following due debate, it was moved and seconded that the contents of the report in response to the question posed by the elected Member be noted. By a show of hands, this was unanimously agreed.

A Member then moved a further motion which was seconded, in that a further report be brought to the Committee to consider the continuation of the Group 2 standard for all new drivers, whilst allowing existing drivers with no break in their licence to continue on a Group 1 basis. Following debate on the merits of the motion, it was put to the vote, and by a show of hands (and in noting there were 2 for, 7 against and 1 abstention) was declared lost. It was therefore

RESOLVED that the contents of the report in response to the question posted by the elected Member be noted.

4 HACKNEY CARRIAGE/ PRIVATE HIRE VEHICLE & PRIVATE HIRE VEHICLE OPERATOR FEES - 2019/20 (VERBAL UPDATE)

The Licensing Manager delivered a verbal update on this item and reminded Members that at the previous meeting of the Committee on 23rd September 2019, Members had taken the decision to delay determination of the vehicle and operator fees for 2019/20 until after the scheduled Brexit date of 31st October 2019, and had requested that the proposed fee

increases be brought back to the Taxi and General Committee for reconsideration after that date.

The Licensing Manager gave an update on the Brexit situation, and explained that since the scheduled date had now lapsed (currently rescheduled for 31st January 2020), Members may wish to consider how to proceed in regards to determining these fee increases.

The Committee discussed the update and were of the view that as the decision taken at the previous meeting had been to delay determination of these fees until after Brexit, they should continue to wait until after Brexit before reconsidering the fees.

It was moved and seconded that determination of the vehicle and operator fees for 2019/20 be delayed until after Brexit, and by a show of hands (and in noting there was 1 against), was agreed by the majority present.

RESOLVED that determination of the vehicle and operator fees for 2019/20 be delayed until after Brexit.

The meeting closed at 11.02 am