

Runnymede Borough CouncilRegulatory CommitteeWednesday, 13 March 2024 at 7.30 pm

Members of the Committee present: Councillors J Wilson (Chair), M Harnden (Vice-Chair), D Clarke and R Davies.

In attendance: Councillor M Singh.

22 Minutes

The Minutes of the Meeting of the Committee held on 3 January 2024 were confirmed and signed as a correct record.

23 Declarations of Interest

There were no Declarations of Interest.

24 Taxi fare tariff increase

Before introducing this item, the Chair wished to place on record the Committee's thanks to Mr Robert Smith, Senior Licensing Officer, who would shortly be retiring from the Council after 11 years.

The Committee's approval was sought to increase the taxi fare tariffs, following a survey of the Trade which had been in favour of a review.

Members noted that fares had not been increased since June 2022 when there was an increase of 7.8% for the pull off rate, 11.1% for the second mile and 13.6% for subsequent miles. There had been no increase in waiting time.

The survey had attracted a good response of 27 drivers out of the total 61 and Members noted the comments made alongside the survey replies.

The Committee was advised that a clear preference had emerged for a maximum charge of £5 for the first mile, £3.30 for the second and £2.80 for subsequent miles. There was no proposal to increase the waiting time.

Members noted that Runnymede's rates remained competitive and represented good value for money and it was agreed that the increase in fares was sensible in the current climate, taking into account inflation and the other costs facing drivers.

Officers would arrange for a public notice to be published, and subject to there being no objections received, the fares would come into effect from 8 April 2024

Resolved that -

the fare tariffs are increased in line with this report (Appendix 'D') to be effective from 8 April 2024. Subject to there being no objections to the proposed increases.

25 Private Hire Operator contractual obligations

The Committee noted the implications of recent case law affecting the taxi and private hire sector in respect of the contractual relationship for Private Hire Operators.

Officers outlined the case of *Uber London Ltd v Transport for London and others* [2021] EWHC 3290 (Admin). Members were advised that the Divisional Court ruled in order to operate lawfully under the Private Hire Vehicles (London) Act 1998 a licensed operator who accepted a booking from a passenger was required to enter as principal into a contractual obligation with the passenger to provide the journey which was the subject of the booking. This case required the operator concerned to change its business model to contract directly with passengers rather than classifying itself as an agent. This helped confirm driver status as workers with statutory protections and also had VAT implications. Members noted that although this was predominantly a case relating to workers' rights, it also carried implications for all London based operators in respect of their operating model by placing the operator under an obligation to enter into a contract with the passenger as principal, where a passenger made a booking, and affected their responsibilities under that contractual relationship.

The Committee was informed that Uber sought a declaration at the High Court to the one imposed on it for London to cover the rest of England and Wales where Operators are governed by the Local Government (Miscellaneous Provisions) Act 1976. Officers advised that the most recent case was *Uber Britannia Limited v Sefton Metropolitan Borough Council & Others* judgement on 28 July 2023. This had resulted in the Court agreeing with Uber and declared that this did cover the rest of England and Wales and applied to all Private Hire Vehicle Operators in England and Wales, regardless of how many vehicles and drivers were available to them.

Members noted that all Private Hire Operators following the judgement were required to comply with the obligation and fulfil their responsibilities under private hire legislation. These responsibilities included:

- a Licensed Private Hire Operator must itself accept bookings from its passengers, rather than anyone else (for example a driver) doing so;
- a Licensed Private Hire Operator must itself take responsibility for the journey from point A to point B, rather than anyone else (for example a driver) doing so;
- the booking must be carried out in a licensed Private Hire Vehicle (licensed by the same Council as where the Operator is licensed) (or taxi) driven by a licensed driver (again licensed by the same authority); known as the 'triple lock'
- the booking must be carried out for a fare which was either agreed or for which an accurate estimate was provided in advance.

It was noted that an operator could still sub-contract a booking to another licensed operator but the contract with the operator who initially accepted the booking remained. Officers confirmed that all operators were required to comply with the obligation including those without written contracts.

Following the ruling, Officers advised that it was likely to be an expectation that Local Licensing Authorities took steps to ensure that all licensed Private Hire Operators under their jurisdiction were aware and compliant with their obligations. This could be achieved by the addition of a licence condition to be included in all licenses issued under section 55.

Officers suggested that the additional condition could state:

"The operator shall enter into a contractual obligation as principal with the person making the private hire booking to provide the journey, which is the subject of the booking, and any such contractual obligation must be consistent with the Local Government (Miscellaneous Provisions) Act 1976.

However, Members agreed that as leave to appeal had been given to this decision and the Government had stated a consultation would be held in early 2024 on the levying of full

VAT on private hire operators it would be prudent not to update the Council's policy at this time but await the outcome which might result in further guidance being issued.

The report was duly noted.

26 **Exclusion of Press and Public**

A member of the public attending the meeting objected to being excluded from the meeting. However, the Chair explained that the report contained confidential financial contractual information.

Resolved that –

the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in paragraph 3 of Part 1 of Schedule 12A of the Act.

27 **Hackney Carriage rank provision at railway stations**

The Committee's approval was sought to ratify a decision made by South Western Railway (SWR) regarding the provision of taxi ranks at their railway stations in the borough.

Officers advised that the current arrangement whereby SWR rented their taxi ranks at the railway stations in the borough through the Council was going to cease. From 2025 SWR would contract directly with the drivers in line with all the other boroughs and districts covered by SWR.

The Committee recognised the financial impact this might have on drivers especially in Egham where the six ranks were immediately outside the station and were well used and there being a lack of rank provision as a result of Magna Square and other developments in Egham and local opposition to ranks.

Members were advised that following discussions with SWR it was proposed that SWR would take back the control, supervision and contract arrangements from 1 January 2025. The revised fee for 2024 was noted. The Committee agreed that continuing with the contractual arrangement represented too great a financial risk including that of unrecoverable costs.

Officers in Environmental Health were asked to check how the changes would be communicated to the taxi trade who had been made aware that SWR intended to take over the rank contract arrangements and would be advised when more information was available. The next taxi forum might provide an opportunity to do this.

Officers in Environmental Health and the incoming Senior Licensing Officer were asked to facilitate a discussion between the trade and Thorpe Park in regard to the location of their taxi ranks and making them more accessible to the licensed trade. It was reported that the trade might not be adverse to entering into a contractual agreement with Thorpe Park should there be an opportunity to do so.

Officers in Environmental Health and the incoming Senior Licensing Officer were also asked to liaise with SWR with regard to the future viability of the existing taxi ranks in Addlestone and Chertsey which it was reported were under used. It was agreed that SWR should be encouraged to consult with the trade.

Members regretted the fact that the Council could not afford to continue subsidising the

arrangement, given the proposed increase in cost following the lease pricing review conducted by SWR.

Resolved that –

- i) the increase in fees for 2024 be noted; and**
- ii) the planned contractual changes with South Western Railway be approved**

(The meeting ended at 7.50 pm.)

Chair