

APPENDIX 2
ITEM NO:

NAME OF DECISION-TAKER	LICENSING AND PUBLIC SAFETY PANEL
DATE OF DECISION TAKING MEETING:	WEDNESDAY 19TH JUNE 2002
SUBJECT:	CONSULTATION ARRANGEMENTS FOR THE TAXI AND PRIVATE HIRE TRADE
REPORT OF:	SOLICITOR TO THE COUNCIL
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A. RECOMMENDATION

To consider and determine what arrangements should be made for consultation with the taxi and private hire trade in Southampton.

B. STATEMENT OF REASONS FOR APPROVING THE REPORT RECOMMENDATIONS

The former Environmental Services Committee determined the current consultation arrangements with the taxi and private hire trade on 19th August 1996.

The trade representative body with which the Council previously consulted is, for a variety of reasons, effectively defunct.

Members of the Panel have expressed their view that fresh arrangements for consultation should be made and this report seeks the panel's approval for new arrangements to be made.

C. STATEMENT OF ALTERNATIVE OPTIONS CONSIDERED

There is no legal requirement for the City Council to have a general consultation process with the Hackney Carriage and Private Hire trade in the City.

In view of this, the Panel's options are,

- (i) to take no further action and continue with the existing situation, which might result in the alienation of sections of the trade
- (ii) to agree new consultation arrangements as set out in this report

D. COMMUNITY IMPLICATIONS AND WARDS AFFECTED

This issue potentially affects all those who hold licences for activities in the taxi and private hire trade in the City.

SUMMARY

1. This report seeks approval from the Panel for the establishment of fresh consultation arrangements with the taxi and private hire trade in Southampton.
2. Such consultation arrangements cannot, in any circumstances, be more than a two-way exchange of views and cannot be part of the decision making process.

BACKGROUND

3. Environmental Services Committee, at its meeting on 19 August 1996 designated the Combined Southampton Taxi and Private Hire Consultative Association (more commonly known as "STAPH") as the sole organisation with which it would consult on matters concerning the taxi and private hire trade in Southampton.

4. It has been clear to your Officers for some considerable time that STAPH had lost any effectiveness it may once have had as a consultative body representing all, or at least the vast majority of the 800 plus holders of licences from the City Council for either hackney carriages, private hire vehicles, hackney carriage drivers, private hire drivers or private hire operators. Prior to STAPH's formation, a number of organisations claim to represent elements of the trade, amongst which were the Southampton Taxi Consultative Council (STCC), the Southampton Taxi Owners Association (STOA) and the Transport and General Workers' Union Cab Section (TGWU).
5. At a late stage in the preparation of this report, an e-mail was received from the TGWU indicating that a meeting on 29th May 2002 between the TGWU, STCC and SHA had recognised that STAPH was defunct.
6. Appendix 1 to this report sets out a list of those organisations mentioned and their acronyms.

REPORT DETAILS

7. The intended purpose of the formation of STAPH was to ensure that one body represented all elements of the trade, be they involved in hackney carriage or private hire vehicles exclusively or with interest in both parts of the trade.
8. Unfortunately, although STAPH claimed to represent the trade, details of its individuals members were never forthcoming and the City Council were obliged to rely on the assurances of its Officers as to the extent of its representation. In a recent Court case, the City Council encountered some adverse Judicial comment, having relied on STAPH as the trade representative body, when STAPH's Chairman, appearing as a witness for appellant, was unable to state clearly who it was that he represented.

9. In the course of last year, it became clear that although STAPH still existed in some form, it might well be a spent force. New associations, the Private Hire Association in Southampton (PHAS) and the Southampton Hackney Association (SHA) had been formed, ostensibly to represent discrete sections of the trade. Both these organisations and the TGWU have indicated their wish to be independently represented in any consultation procedure.
10. It is not clear whether PHAS and the TGWU are still participating in STAPH, or even whether it still functions, but it is known that the SHA has no involvement with that body.
11. At varying times during the past two years, STAPH, PHAS, TGWU and the SHA have been requested to give details of the individual licensees whom they claim to represent. Of the organisations, only the SHA has done so.
12. The City Council cannot force any individual licensee to participate in a consultation process, but it should ensure that its consultation arrangements are transparent and that it can clearly demonstrate that those with whom it is consulting represent a majority of person who may be affected by proposals for changes in licence conditions and similar matters.
13. There are also significant portions of the trade, for instance, West Quay Cars and Streamline, not mentioned above who do not appear to be represented by any of the currently active organisations mentioned above.
14. In addition, the consultation process should enable a dialogue to take place between representatives of the trade and the City Council on matters of mutual interest.

PROBLEMS WITH THE PREVIOUS CONSULTATION PROCESS

15. It is clear that the consultative process before the formation of STAPH was defective in that a large section of the trade, principally those persons holding various private hire licences were not adequately represented, if at all.

16. In its early stages, STAPH appeared to deal with this difficulty and the views being expressed by its representative were apparently the consolidated views of a large portion of the trade. However, more recently, it is clear that STAPH has been subject to considerable factional infighting and it can no longer be said to represent the views of majority of the trade.
17. Before the formation of STAPH, consultation meetings had become wholly unworkable, with numerous representatives of each of the, often competing, organisations attending meetings, which rarely, if ever, were able to make progress on any matter.

PROPOSED CONSULTATION ARRANGEMENTS

18. If the City Council wishes to engage in consultation with the hackney carriage and private hire trade in the city, it is clear that arrangements must be put in place which enable it to have certainty as to who it is consulting with and who those persons represent. Of the existing organisations, STAPH, STCC, STOA, TGWU, PHAS and SHA., only the latter has provided details of its individual members, who number in excess of 100 hackney carriage drivers and proprietors.
19. It is clear from past experience that “recognising” numerous different associations, all of whom purport to represent myriad parts of the trade, but no individual association or even the sum total representing the entire trade, any decision made by the City Council based on consultation with such bodies would be fundamentally flawed. This would make any such decision liable to being successfully challenged in the Courts.
20. In the circumstances, it is proposed that the individual licensees will be asked to nominate a small number of persons to form a consultative body to represent all elements of the trade.
21. When nominations have been made for membership of that body, the matter will be put to a ballot of all those who hold licences, on the basis of one person, one vote.

22. This would appear to be the most equitable and transparent means of dealing with this issue and will, so far as is possible, ensure that the body with which the City Council consults represent as wide a spectrum of opinion as is reasonably practicable. Such arrangements would, in the event of the City Council needing to respond to an appeal against some aspect of the licensing regime enable it to be clearly shown that reasonable and proportionate consultation had been carried out before the City Council had made the decision complained of.
23. It should be borne in mind that consultation does not necessarily mean agreement with and that consultation meetings cannot be decision-making meetings. The decision on any particular matter must be made by the Licensing and Public Safety Panel in the light of all relevant factors, of which the result of any consultation with the trade will be one.
24. A result of the implementation by the Council of the Cabinet system will also mean that meetings of the new consultative body with the panel will only be able to deal with non-executive matters. Matter relating to licence conditions and fares are within the remit of the Panel, but matter such as taxi ranks are within the Environment and Transport portfolio and the Panel would not be able to deal with them.

PURPOSE OF CONSULTATION

25. A two-way exchange of information, dialogue and discussion.
26. To hear the views, comments and concerns of the trade.
27. To receive information, comments and concerns of the Licensing Team, Members and the Council as a whole.
28. Not to be a decision making forum.

29. Where matters are of particular concern and where appropriate, matters raised can be referred to the Licensing & Public Safety Panel where a formal decision can be made.

POLICY FRAMEWORK IMPLICATIONS

30. The decision to approve consultation arrangements in the manner set out in this report is not contrary to the Council's policy framework.

LEGAL IMPLICATIONS

31. There is no legal requirement for the Panel to have any consultation process with the taxi and private hire trade, other than the discrete issues concerning fees for vehicle and operators' licences and taxi fares where formal public notices must be given.
32. It is, however, considered to be a matter of good practice that an informal framework exists for a two-way exchange of views with this significant part of the public transport sector in the City.

FINANCIAL IMPLICATIONS

33. The implementation of this report will have, as yet unknown, costs chargeable to the licensing envelope. Ultimately, those costs will need to be reflected in the level of the fees charged for hackney carriage and private hire vehicle licences, hackney carriage and private hire driver licences and private hire operator licences.

RESULTS AND CONSULTATION

34. If the Panel were to agree to the proposals, arrangements would be put in place, possibly using the services of the City Council's Electoral Registration Officer for the nomination and ballot process to be undertaken.

35. It is proposed that the election process will be as follows:

Each candidate will be required to have a minimum of ten nominations from holders of licence. No licensee will be able to nominate more than one person.

The election will be conducted on the basis of "first past the post" with each licensee being able to vote for not more than six candidates.

The Solicitor to the Council will have delegated power to determine such details of the process as may be necessary.

36. Members are recommended that the consultative body should have the following terms of reference:

37. The consultative body should be known as the Southampton Taxi and Private Hire Consultative Group (STPHCG).

38. The consultative body will be entirely self – financing from within its membership.

39. The group will seek to represent every holder of a hackney carriage, private hire vehicle, hackney carriage driver's, private hire driver's or private hire operator's licence issued by the City Council.

40. In order to ensure that the arrangements are meaningful, the number of members of the trade representing the Group at any formal or informal meeting with the Council should not exceed six.

41. The individuals elected to represent the Group at meetings with the Council should serve for a maximum of three years.

42. Meetings between the Council and the Group should be held every three months.

43. Meetings should alternate between those involving Members of the Panel and officers with the Group, and meetings involving only officers and the Group.
44. The Group will be free to establish whatever rules of procedure or constitution it wishes, subject to these terms of reference, and a copy of such rules or constitution shall be deposited with the City Council within fourteen days of it being made or amended.
44. If the Panel agrees this report, the next step will be for all holders of taxi and private hire licences to be notified and arrangements made for nominations to be received and elections held.
45. It is recommended that nominations for representative members the group should be made within 28 days of the notification to licensees by the Solicitor to the Council referred to in 44 above.
46. Arrangements will then be made for a postal ballot of all licence holders to be concluded within a reasonable period after the close of nominations.

Solicitor to the Council

Set out below are the names of the various bodies referred to and the acronyms used for them in this report.

STAPH	Combined Southampton Taxi and Private Hire Consultative Association
STOA	Southampton Taxi Owners' Association
SHA	Southampton Hackney Association
PHAS	Private Hire Association, Southampton
TGWU	Transport and General Worker's Union, Cab Section
STCC	Southampton Taxi Consultative Council
STPHCG	Southampton Taxi and Private Hire Consultative Group