

Licensing Committee

Tuesday, 10th June, 2014

PRESENT: Councillor M Harland in the Chair

Councillors K Bruce, N Buckley, R Downes,
J Dunn, G Hussain, G Hyde, A Khan,
B Selby, C Townsley and G Wilkinson

1 Chair's Opening Remarks

In opening the meeting the Chair welcomed everyone to the first meeting of the Licensing Committee for the new Municipal year.

The Chair congratulated those Members who had been successful in retaining their seats in the recent Local Elections and thanked Councillors Charlwood and Hyde for the Chairing of the Licensing Committee over the past 12 months.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of the inspection of documents.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no items identified where it was considered necessary to exclude the press or public from the meeting due to the confidential nature of the business to be considered.

4 Late Items

The Committee accepted the inclusion of supplementary information in respect Private Hire Operator conditions (Minute No.11 refers) and also Convictions Criteria Hackney Carriage and Private Hire Operators and Drivers (Minutes No.12 refers) Officers reported that the information in question was not available at the time of agenda publication but it was considered to be in the best interests of all parties concerned that the matter be considered without delay

5 Declaration of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests

6 Apologies for Absence

Apologies for absence were received from: Councillor Flynn, Councillor Gettings, Councillor Hanley and Councillor Ingham

7 Minutes of the Previous Meeting

The Minutes of the previous meeting held on 8th April 2014 were accepted as a true and correct record.

8 Matters Arising From the Minutes

Shisha Smoking and Smoke Free Legislation – Update Report (Minute 130 refers) – Councillor Hussain referring to Resolution (ii) “That a further update report be brought back to this Committee in 6 months’ time (October). An invitation to attend be extended to other multi agency partners” – Councillor Hussain asked which multi agency partners had been invited to attend.

In responding John Mulcahy, Head of Licensing and Registration said no officers from Environment and Neighbourhoods were in attendance at today’s meeting but enquiries would be made and Councillor Hussain notified accordingly

9 Licensing Committee - Annual Governance Arrangements

The City Solicitor submitted a report seeking to establish the governance arrangements for the Licensing Committee for the 2014/2015 Municipal Year, namely:

- To note the terms of reference of the Licensing Committee as agreed at the annual Council meeting on 9th June 2014.
- To appoint Licensing Sub-Committees for the 2014/2015 Municipal year.
- To approve terms of reference for the Licensing Sub-Committee
 - To approve the delegation of functions to Officers as appropriate.

Appended to the report were copies of the following documents:

- Licensing Committee Terms of Reference (Appendix 1 refers)
- Membership of each Licensing Sub Committee (Appendix 2 refers)
- Licensing Sub Committee Terms of Reference (Appendix 3 refers)
- The delegation Licensing functions to the Assistant Chief Executive (Citizens and Communities) (Appendix 4 refers)

Mary O’Shea, Section Head, Legal Services, presented the report and responded to Members questions and queries

Detailed discussion ensued on the contents of the report which included:

- Membership of each Licensing Sub Committee

Members commented on and made amendments to the proposed membership of the Sub Committees as set out in Appendix 2 of the submitted report.

RESOLVED –

- (i) To note the terms of reference of the Licensing Committee as approved by full Council on 9th June 2014 as shown at Appendix 1
- (ii) That subject to a number of minor amendments to reflect comments made by Members the five Licensing Sub-Committees hearings required under the 2003 and 2005 Acts be established with the following memberships:
 - A Councillors Bruce, Downes and Gettings
 - B Councillors Dunn, Buckley and G Hussain
 - C Councillors Townsley, Ingham and Hyde
 - D Councillors Hanley, Flynn and Selby
 - E Councillors Khan, Wilkinson and Harland
- (iii) That approval be given to the terms of reference for the Licensing Sub-Committees as set out in Appendix 3 of the report
- (iv) That approval be given to the delegation of Licensing functions to the Assistant Chief Executive (Citizens and Communities) as shown in Appendix 4 of the report.

10 Licensing Procedure Rules, the Code of Practice for Determining Licensing Matters and Prescribed Licensing Training

The City Solicitor submitted a report setting out the draft Procedure Rules relating to hearings and other meetings of the Licensing Committee and Sub-Committees and sought approval for the Rules to be adopted in order to govern committee procedure. The report also highlighted the Code of Practice for the Determination of Licensing Matters, previously approved by Standards Committee, but now within the remit of the Committee to determine.

Member's attention was also directed to the arrangements for the prescribed Member Training on licensing under the provisions of Article 8A of the constitution and the Code of Practice.

RESOLVED –

- (i) That the Licensing Procedure Rules as set out as Appendix 1 of the report be approved
- (ii) That approval be given to the contents of the Code of Practice of or the Determination of Licensing Matters as set out in Appendix 2 of the report and that the Committee agree to follow the Code
- (iii) To note the arrangements for the prescribed training programme.

- (iv) That the Code of Practice for the determination of Licensing Matters be circulated to all Members of Council for information

11 Review of Private Hire Operator (PHO) Conditions - draft policy and conditions proposals following consultation

The Head of Licensing and Registration submitted a report which provided a review of the PHO conditions. The report put forward proposals intended to contribute and uplift the service standards and compliance across the operator licensing base and meet arising public safety challenges.

Appended to the report was a copy of the following documents:

- Existing Private Hire Operator conditions (Appendix 1 refers)
- General advice and guidance notes (Appendix 2 refers)

Des Broster, Section Head, Taxi and Private Hire Licensing presented the report and responded to Members questions and queries

Detailed discussion ensued on the contents of the report which included:

- Customer focus, business improvements and best practice
- The need to be fair and proportionate
- Operator training (Expected standard of service and safety)
- Out of town drivers
- Electronic booking and despatch systems
- The recording of complaints

Commenting on “Out of Town Drivers”, Councillor Dunn suggested that any revised policy should be shared with other local authorities.

In responding Mr Broster said that any change to the Leeds Policy would be viewed with interest by other Local Authorities.

Councillor Khan asked if the conditions applicable to “Out of town drivers” were enforceable.

Referring to section 3.10 of the submitted report Mr Broster said the City Council were powerless to determine “on the spot” if such a driver or vehicle was properly licensed at any time while conducting enforcement activity on the street. Mr Broster said the emphasis was on proportionate safety and not restrictive practices

Commenting on driver welfare, Councillor Khan suggested it was important for a mechanism to be in place to guard against unjustified complaints.

In offering comment Mr Broster said that driver welfare was recognised as part of the Private Hire Driver Training.

Referring to driver protection, Councillor Bruce referred to the need for drivers to be adequately protected.

In responding Mr Broster said that some vehicles had already been equipped with CCTV equipment another option was driver safety shield, the Taxi and Private Hire Section had a budget to fund 50% of the cost but the take up was low.

It was suggested that the trade be made aware that there was financial support on offer to assist in the provision of driver safety shields

Addressing the draft policy and conditions, Councillor Hyde said it was important that the views of the trade, operators and drivers were taken into account.

RESOLVED –

- (i) To approve in principle the policy and conditions and to direct Officers to prepare a report for consideration by the Executive seeking approval of the policy
- (ii) To approve the time scales for implementation of the policy and conditions

12 Convictions criteria - Hackney Carriage (HCD) and Private Hire Drivers (PHD), Private Hire Operators (PHO) and Hackney Carriage Proprietors (HC) - draft policy and conditions proposals following consultation.

The Head of Licensing and Registration submitted a report which identified the current relevant legislation and the public safety benefits in having a clear and defensible policy that would meet the statutory obligations for protecting the public and which provides clear public information and a decision making criteria and process for Members, Officers and the Courts

Appended to the report was a copy of the following documents:

- Current Convictions Criteria – Points Criteria Table (Appendix 1 refers)
- Proposed Indecency Table (Appendix 2 refers)
- Proposed Violence Table(Appendix 3 refers)
- Proposed Dishonesty Table (Appendix 4 refers)
- Proposed Drugs Table (Appendix 5 refers)

- Racially Motivated Offences (Appendix 6 refers)
- Current Policy Guidelines on Motoring Convictions and Disqualifications (Appendix 7 refers)
- Newspaper articles to illustrate the issues at national level (Appendix 8 refers)
- Driver convictions and penalty point Accumulation (Appendix 9 refers)
- Offences covered under motor convictions (Appendix 10 refers)
- Convictions consultation (Appendix 11 refers)

Des Broster, Section Head, Taxi and Private Hire Licensing presented the report and responded to Members questions and queries

Detailed discussion ensued on the contents of the report which included:

- The distinctions between criminal convictions and driving convictions
- Additions to the convictions criteria

In offering comment Councillor Selby welcomed the report and proposals suggesting that under the new proposals alcohol should be treated in the same way as drugs

Councillor Townsley suggested using the trade newsletter to make drivers aware that the Council would be demanding higher standards.

Councillors Wilkinson and Hussain referred to the totting up process and the build-up of penalty points. It was noted that a number of drivers appeared to exceed 12 points which should result in disqualification from driving.

In responding Mr Broster referred to “Exceptional Hardship” paragraph 3.24 of the submitted report, suggesting that if the driver could demonstrate “Exceptional Hardship” how it might affect the driver and “others” (partner, business partner, family or dependent relative) the Courts may not decide to disqualify.

RESOLVED –

- (i) To approve in principle the amendments to the policy and new policy proposals in respect of the “convictions criteria” and to direct Officers to prepare a report for consideration by the Executive
- (ii) To approve in principle the amendments to the policy and new policy proposals in respect of the “motoring convictions generally and disqualification from driving” and to direct Officers to prepare a report for consideration by the Executive

13 Hackney Carriage Proprietors (HCP) - Appropriate Suitability Assessment.

The Head of Licensing and Registration submitted a report which informed Members of the legislation applicable to Hackney Carriage Proprietors, the existing policy of the Licensing Committee, legal advice and the recommendation of the Licensing Committee Working Group on the issue of an appropriate suitability assessment.

Appended to the report was a copy of the following documents:

- An extract from a report produced by the Director of Legal and Democratic Services "Knowledge Testing for the Private Hire and Hackney Carriage Trade – Supplementary Report (English literacy, language & numeracy skills) (Appendix 1 refers)
- Vehicle Transfer Policy: who does my Hackney Carriage Licence transfer to in the event of my death? (Appendix 2 refers)
- Response to consultation (Appendix 3 refers)

Des Broster, Section Head, Taxi and Private Hire Licensing presented the report and responded to Members questions and queries

Detailed discussion ensued on the contents of the report which included:

- English comprehension requirement
- Non English speaking wives of HCP could be financially disadvantaged
- Equality requirements
- Existing policy had not raised any notable problems

In offering comment Councillor Hussain said that individuals should not be put at a disadvantage.

Referring to section 3.6 of the submitted report Councillor Wilkinson suggested that the existing policy had not raised any notable problems

Councillor Hussain was of a different view suggesting that the existing policy had raised a number of issues.

Councillor Buckley suggested that anyone taking over the business should be able to understand English or be able after a short transition period.

Councillor Selby said there could be possible effects on a business as a consequence of a beneficiary owner not speaking English

RESOLVED –

- (i) That consideration of this item be deferred for further clarification around inheritance issues and possible effects on the business as a consequence of the owner not speaking English
- (ii) That a further report be brought back to the August meeting of this Committee

14 3 year driver licences for Private Hire and Hackney Carriage drivers.

The Head of Licensing and Registration submitted a report which informed Members of the consultation undertaken with the Private Hire and Hackney Carriage Trade in order that further consideration may be given to the Committees previous "in principal" approval in light of the consultation feedback

Appended to the report was a copy of the following documents:

- Draft three year Licence Policy (Appendix 1 refers)
- Consultation Feedback (Appendix 2 refers)

Des Broster, Section Head, Taxi and Private Hire Licensing presented the report and responded to Members questions and queries

Detailed discussion ensued on the contents of the report which included:

- Public Safety considerations
- The starting point for obtaining a 3 year licence (the essence of the policy) including 5 years continuous 'good service' and what makes up 'good service'.
- The necessity for continuous annual on line DBS checks and DVLA checks for drivers;
- The process steps
- When or how a licence might be suspended
- Financial implications

In seeking clarification Councillor Khan asked if payments could be made by instalment

In responding Mr Broster reported that the issue of paying by instalments had been investigated, section 3.4 of the submitted report referred, but currently there were no plans to introduce payments by instalments.

RESOLVED –

- (i) To approve in principal the 3 year Licence Policy for Driver Licences for Private Hire and Hackney Carriage Drivers
- (ii) That officers be requested to prepare a report for the Executive seeking approval of the Policy

15 De-Regulation Bill 2013

The Head of Licensing and Registration submitted a report which informed Members of the relevant issues which would enable them to determine what actions they may consider appropriate in order to voice their concerns about the De-Regulation Bill 2013

Appended to the report was a copy of the proposed De-Regulation legislation (Appendix 1 refers)

Des Broster, Section Head, Taxi and Private Hire Licensing presented the report and responded to Members questions and queries

Detailed discussion ensued on the contents of the report which included:

- The relaxation of the legislation on who could drive a licensed Private Hire vehicle for social domestic, pleasure purposes and the significant public safety issues arising from this

In offering comment Councillor Selby said that awareness needs to be raised about the significant public safety issues which could arise with the de-regulation of the legislation and suggested writing to all Leeds Members of Parliament, The Local Government Association, Neighbouring Authorities and the Secretary of State highlighting the City Council's concerns.

Members were supportive of Councillor Selby's suggestion

RESOLVED – That the Head of Licensing and Registration be requested to write to all Leeds Members of Parliament, the Local Government Association, Neighbouring Local Authorities and the Secretary of State highlighting the City Council's concerns about the significant road safety issues which could arise as a consequence of the de-regulation of the legislation

16 Licensing Committee Work Programme 2014

Members considered the contents of the Licensing Committee Work Programme for 2014/15

RESOLVED – That, subject to the inclusion of any additional items of business identified at this meeting, the contents of the Licensing Committee Work Programme be noted

17 Date and Time of Next Meeting

RESOLVED –To note that the next meeting will take place on Tuesday 8th July 2014, at 10.00am in the Civic Hall, Leeds.