

Licensing Committee

Tuesday, 26th January, 2021

PRESENT: Councillor B Garner in the Chair

Councillors N Buckley, R Downes, B Flynn,
A Garthwaite, H Bithell, P Drinkwater,
C Knight, A Hutchison, P Latty, J Lennox,
A Marshall-Katung, A Wenham, P Wray
and L Richards

1 Appeals Against Refusal of Inspection of Documents

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

2 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.

3 Late Items

Although there were no late items identified, the Chair did accept the inclusion of supplementary information in respect of Agenda Item No. 8 - Representation from the Taxi and Private hire Trade (Minute No 9 referred)

4 Declaration of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests made at the meeting.

5 Apologies for Absence

There were no apologies for absence.

6 Minutes of the Previous Meeting

Members received the Minutes of the previous meeting held on 3rd March 2020 for comment/ approval.

RESOLVED – That the Minutes of the previous meeting held on 3rd March 2020, be accepted as a true and correct record.

7 Matters Arising from the Minutes

Referring to the Licensing Annual Report 2019 (Minute No. 100) – Members sought further clarification about the Clean Air Zone, in particular those drivers who had taken out grants and loans to purchase new lower emission vehicles, to be informed

later that introduction of the CAZ was now been delayed, was anything being done to support these drivers.

The Taxi and Private Hire Licensing Manager said that for those vehicle owners who had applied for funding, the Clean Air Team were currently in the process of contacting everyone who had applied. The Council were investigating the possibility of retaining some clean air funding to enable those exempt vehicles to have free vehicle licensing for the duration of the amount of funding secured, possibly 3 years.

It was suggested that anyone considering applying for funding in the future, this would be separate funding, outside the control of Vehicle Licensing. A decision about potential future funding was likely to be known in the next few weeks.

8 Review of the Gambling Act 2005 - Cal for Evidence

The Chief Officer Elections and Regulatory submitted a report which informed the Committee of the Government's intention to review the Gambling Act 2005. Members were informed that a Call for Evidence had been issued with a closing date of 31st March 2021.

The Principal Licensing Officer informed Members that the response would be co-ordinated by Entertainment Licensing on behalf of the Council with input been sought from the Licensing Committee.

The report put forward a number of options on the best way for Members to provide feedback which included: the establishing of a working group, individual responses by email to the Call for Evidence, feedback on the draft response prepared by officers or a combination of the various options.

In the discussion that followed Members expressed a preference for the option to allow officers to prepare a draft response which would then be circulated to Members to allow an opportunity to comment /provide feedback.

RESOLVED – That the Chief Officer Elections and Regulatory be requested to prepare a draft response to the Call for Evidence, which would then be circulated to Members to allow an opportunity to comment /provide feedback.

9 Taxi & Private Hire Licensing - Leeds City Council Assessment Against Statutory Guidance from the Department of Transport

The Chief Officer Elections and Regulatory submitted a report which informed Members of the new Statutory Guidance for licensing authorities issued by the Department for Transport (DfT) in July 2020.

Members were informed that while the guidance does not change the underlying UK law, it provides strong guidance for every licensing authority in England and Wales. The DfT has requested that every licensing authority in the UK report a self-assessment against the guidance.

Addressing the report the Taxi and Private Hire Licensing Manager explained the submitted report represented the Council's self-assessment against the Statutory Guidance and highlighted the areas where the new guidance had already been satisfied, where largely satisfied, and where either not met or at odds with the guidance, using a green, amber and red rating for each of the respective categories.

Members noted that for a small number of sections of the guidance, the council's current position either remained short of the standard proposed, or differed significantly from the approach the guidance strongly recommended, the sections referred to included:

- Decision Making and Regulatory Structure
- Booking and Dispatch Staff
- Suspension and Revocation of Drivers Licences

The Chair acknowledged the receipt of representation received from the Taxi and Hackney Carriage Trade (Eurocabs Hackney Carriage Association and JTC).

The representation emphasized the need for the Statutory Guidance to be adopted with particular reference to the "convening of Boards or Sub Committees for licensing decisions and also the uncertainty and accepting punishment without being found guilty".

Decision Making and the Regulatory Structure – Members were informed that the guidance recommended that councils operate with a Regulatory Committee or Board or Sub Committee that was convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board.

Members queried how often such a Sub Committee would meet.

The Taxi and Private Hire Licensing Manager suggested it may be necessary to convene Sub Committees on a weekly basis, bringing only contentious issues to the Committee.

The Section Head, Legal Services advised that notwithstanding a decision made by the Sub Committee, an applicant would still have a right to appeal through the Magistrates Court.

In the discussion that followed, the majority of Members were of the view that the involvement of a Sub Committee may not improve the situation in deciding individual cases fairly and quickly.

It was suggested that the Licensing Committee undertake a review of the decision making process, which would then be subsequently be applied by officers, supervisors and managers.

Members were supportive of the suggestion.

Booking and Dispatch Staff - Members were informed that the guidance recommended that Licensing Authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Licensing Authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept. Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.

The Taxi and Private Hire Licensing Manager reported that the council does not currently have this requirement in place in the Private Hire Operator conditions. While vehicle proprietors, private hire operators and both hackney carriage and private hire drivers are required to have a DBS, operators' staff taking phone calls and bookings are not currently required to do so.

In the discussion that followed, Members were of the view that in order to protect vulnerable people and children it was important to ensure that Basic DBS checks were introduced for all booking and dispatch staff.

All Members were supportive of the proposed action

Suspension and Revocation of Drivers Licences - Members were informed that the guidance recommended that a decision is made to either suspend or revoke a licence, and that a licence, once suspended, should seldom be revoked.

Members were informed that Licensing Authorities had the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

The Taxi and Private Hire Licensing Manager reported the council currently operates a procedure where licensing officers, supervisors and managers can make decisions to suspend a licence on immediate public safety grounds to allow the council or the police to conduct an investigation. This is in line with the Local Government Miscellaneous Provisions Act 1976, section 61 a) and b), and captured in an immediate suspension policy.

Members queried if LCC policy on the suspension and revocation of drivers licences was compliant with Statutory Guidance.

The Taxi and Private Hire Licensing Manager confirmed that currently the Statutory Guidance was not being followed, for some serious offences a licence could be revoked based on the evidence available at the time (Paragraph 9.7 of the Statutory Guidance).

In the discussion that followed, Members were of the view that statutory guidance must be given due regard and the decision making process around suspension and revocation of drivers licences requires a policy review, which could be aligned with the review of decisions.

All Members were supportive of the proposed action

RESOLVED –

- (i) To undertake a policy review of the Decision Making and the Regulatory Structure (decision making process by officers/ Members), which would then be subsequently be applied by officers, supervisors and Managers.
- (ii) To introduce when the Private Hire Operator policy is next reviewed, the requirement for operators to carry out Basic DBS checks for all booking and dispatch staff.
- (iii) To undertake a policy review of the decision making process around suspension and revocation of drivers licences.

10 Date and Time of Next Meeting

RESOLVED - That the next meeting of the Committee be arranged for March 2021, date and time to be confirmed to Members in due course.