

LICENSING COMMITTEE

Minutes of the meeting held on Wednesday, 20th April 2016 at Retford Town Hall

Present: Councillor J Potts (Chair)
Councillors J R Anderson, H M Brand, G Clarkson, K M Greaves, S Isard,
G Jones, D Merryweather, K Sutton and C Troop.

Officers in attendance: S Bacon, J Hamilton and A Webster.

Also present:

(Meeting opened at 6.30pm.)

(The Chair welcomed all to the meeting and read out the Fire Alarm/Evacuation Procedure. She also enquired as to whether any member of the public wished to film/record the meeting or any part thereof; however, although there were two members of the public present, this was not taken up).

56. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors B A Bowles and D Potts.

57. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

(a) Members

There were no Declarations of Interest by Members.

(b) Officers

There were no Declarations of Interest by officers.

58. MINUTES OF THE MEETING HELD ON 16TH MARCH 2016

RESOLVED that the Minutes of the meeting held on 16th March 2016 be approved.

59. MINUTES FOR ACTION

With reference to Minute No. 54(a) – Grant of a Combined Hackney Carriage / Private Hire Driver's Licence, the Principal Solicitor (Licensing and Regulatory) informed Members that the applicant had appealed and the application will be referred to the Magistrates' Court.

RESOLVED that the Minutes for Action be received.

60. OUTSTANDING MINUTES LIST

With reference to Minute No. 26(e), the Principal Solicitor (Licensing and Regulatory) advised Members that a report would be presented to the September 2016 meeting regarding the installation of CCTV in Hackney Carriages / Private Hire Vehicles.

With reference to Minute No. 35(b) – Roadside Catering Policy, the Principal Solicitor (Licensing and Regulatory) reported that work by officers is ongoing.

RESOLVED that the Outstanding Minutes List be received.

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

61. REPORT(S) OF THE PRINCIPAL SOLICITOR (LICENSING AND REGULATORY)

(a) Hackney Carriage and Private Hire Drivers' Convictions and Fitness Policy

Members were asked to consider implementing a Hackney Carriage and Private Hire Drivers' Conviction and Fitness Policy in the Bassetlaw District.

There is no formal definition or guidance regarding the application of the "fit and proper" criteria, therefore it is for each Licensing Authority to develop a policy to deal with applications and reviews of licences.

The Principal Solicitor (Licensing and Regulatory) has worked with the other member authorities of the Nottinghamshire Authorities Licensing Group (NALG) to formulate the proposed policy, which was appended to the report. A list of other Licensing Authorities expected to implement the policy, or a version of it, was listed at Paragraph 3.3 of the report.

Adoption of the proposed policy would mean that there are definite guidelines available to applicants, licence holders, Members and officers. The proposed policy provides clear and unambiguous guidance to all regarding criminal convictions and their effect on the ability of an applicant to work or continue to work as a driver.

Elected Members discussed the policy and issues arising from its implementation, and some minor amendments were suggested. It was noted that a form would be posted on the Council's website to enable those with cautions/convictions to notify the Licensing Authority.

RESOLVED that the proposed Hackney Carriage and Private Hire Drivers Convictions and Fitness Policy, as appended to the report, be approved and referred to full Council for formal ratification.

(b) Credit/Debit Card Charges on Hackney Carriage Journeys

Members were asked to consider the Council's position in relation to proprietors of Hackney Carriages passing the charges levied on them for the use of a credit/debit card payment facility onto customers, after being approached by a proprietor in Retford.

A Merchant Service Charge (MSC) is levied upon the proprietor (and any other business which uses this type of service which allows customers to pay by card). Reasons for offering payment via card were listed at Paragraph 3.4 of the report.

Fares for Hackney Carriages are governed by Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 which allows the Council to set the Scale of Fares for Hackney Carriages. The Scale of Fares sets the maximum fares which can be charged. It is

the view of the Principal Solicitor (Licensing and Regulatory), and also member authorities in the NALG, that the MSC does not form part of the cost of the journey, it is a convenience charge.

It was explained to Members that it needs to be made clear to customers that should they opt to pay by card, the MSC will be passed onto them. Adding a statement to the Scale of Fares would provide clarification to customers on all elements of charging. Hackney Carriage proprietors could also be encouraged to display a sticker advising their customers of the charge. By allowing proprietors to pass the MSC onto their customers, this will hopefully encourage more Hackney Carriages to offer card payment facilities. The proprietor must notify the Licensing Authority, in writing, of their card transaction merchant and the amount of MSC.

It was noted that, as Private Hire Vehicles are allowed to set their own charges, they are able to pass this MSC onto their customers as Section 65 does not apply to Private Hire Vehicles.

Since writing the report, the Principal Solicitor (Licensing and Regulatory) had also been approached by another proprietor who submitted that those proprietors who deal in cash have to pay business bank account charges and this is similar to the MSC. It was further suggested that an overall increase could be given to the Scale of Fares to cover both MSC and bank charges.

Elected Members discussed the proposal for the MSC and its ramifications, also the further request regarding business bank account charges.

It was proposed and seconded that in addition to the resolution proposed in the report:

- (a) Those proprietors who are passing the MSC on to customers must display a clear notice in the vehicle indicating the additional charge; and
- (b) The maximum additional charge which can be passed on to the customer is the MSC.

RESOLVED that:

1. The proposal for Hackney Carriage proprietors to pass their Merchant Service Charge (MSC) onto customers be approved.
2. The maximum additional charge which can be passed onto the customer is the MSC.
3. The Hackney Carriage Scale of Fares be amended to include the following statement: *"If customers wish to pay by credit or debit card, they may be subject to pay a Merchant Service Charge for use of this service."*
4. If proprietors want to pass the MSC onto customers, they must contact the Licensing Department, in writing, to notify the Department of (a) their card transaction merchant, and (b) the MSC amount.
5. If the proprietor changes their card transaction merchant, they must contact the Licensing Department, in writing, to notify the Department of (a) their new card transaction merchant, and (b) their new MSC amount.
6. Those proprietors who are passing the MSC onto customers must display a clear notice in the vehicle indicating the additional charge.

(Councillor J R Anderson abstained from voting on the above item.)

(c) VAT on Hackney Carriage Fares

Members were asked to consider the Council's position in relation to proprietors of Hackney Carriages charging VAT on fares, after being approached by a proprietor in Retford.

HMRC produced a guide in May 2002 which sets out that the fares which are charged to passengers are liable to VAT at the standard rate. This also includes any additional charges

made for baggage or waiting time. Tips or gratuities that are voluntarily given by passengers are not regarded as payment for a supply and are therefore outside the scope of VAT.

Fares for Hackney Carriages are governed by Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 which allows the Council to set the Scale of Fares for Hackney Carriages. The Scale of Fares sets the maximum fares which can be charged.

There is no requirement of proprietors to notify the Council when they become VAT registered. There is no way of indicating to members of the public which vehicles are VAT registered and which would be charging them an additional 20% of their journey.

Other local authorities have amended their Scale of Fares to make it clear to both customer and proprietors that the Scale of Fares is inclusive of VAT. Examples of both Bassetlaw District Council's and other authorities' Scales of Fares were appended to the report.

Elected Members discussed the proposal to amend the Scale of Fares to include VAT at 20%. It was noted that an advertisement will have to be placed in the local press, and also at Queen's Buildings, for a period of 14 days, in order to comply with the provisions of Section 65.

It was explained to Members that the Council did not increase the Scale of Fares when the VAT rate increased from 17.5% to 20%.

RESOLVED that the Hackney Carriage Scale of Fares be amended to include the following statement: *"All fares recorded by taxi-meter are inclusive of value added tax (VAT) and are the maximum that can be charged for the journey."*

(d) Fees and Charges – Hackney Carriage Vehicles and Private Hire Operators' Fees

Members were asked to further consider the fees and charges in respect of Hackney Carriage Vehicles and Private Hire Operators' Licences following an objection from a proprietor in Retford in response to the advertisement in order to comply with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976.

Copies of the advertisement and the letter of objection were appended to the report. The fees and charges for 2015/16 and proposed charges for 2016/17 were set out at Paragraph 3.10 of the report. The proposed increase has been set in accordance with the Corporate Charging Policy and, predominantly, in line with inflation, and therefore takes into account the additional costs which will be incurred by the Licensing Department in issuing licences.

Elected Members discussed the objection and also the implications if the fees and charges are not increased in line with inflation. It was noted that a further date for implementation has to be set, and this cannot be later than two months after the first specified date on which the Scale of Fares should have come into force i.e. 1st May 2016.

RESOLVED that the increase in fees and charges in respect of Hackney Carriage Vehicles and Private Hire Operators' Licences, as set out in Paragraph 3.10 of the report, be implemented, with effect from 1st May 2016.

(e) Street Collections 2016

Members were informed of Street Collection permits granted to date, under delegated authority, to charitable organisations for 2016 and monies collected during 2015. A schedule of collections authorised for 2016 was appended to the report. It was noted that some organisations have not yet applied for a permit in 2016.

RESOLVED that the schedule of Street Collection permits granted to charitable organisations for 2016 and the monies collected during 2015 be noted.

(f) House to House Collections 2016

Members were informed of House to House collections, which have been submitted to date, that will be taking place in the District Council's area during 2016. A schedule of collections authorised for 2016 was appended to the report. The current list of Holders of an Exemption Order issued by the Cabinet Office was also appended to the report. Holders of Exemption Orders notify the local authority of their collection as a matter of courtesy and to avoid overlapping collections, although some overlapping is inevitable due to the number of organisations wishing to collect. Collection dates are posted on the Council's website and Members informed via the monthly Information Bulletin.

Elected Members discussed "scam" collections and possible courses of action. The Licensing Officer explained that these are investigated as soon as they are brought to the attention of the Licensing Department.

RESOLVED that:

1. The schedule of House to House Collection permits granted to charitable organisations for 2016 and the list of National Exemption Order Holders be noted.
2. Members advise the Licensing Department of any potential "scam" collections so that these can be investigated.
3. The Licensing Department advise all Members via email of any "scam" collections occurring in the District so that Members can advise residents accordingly.

(g) Reporting of Street and House to House Collections

In respect of the above two items, the Principal Solicitor (Licensing and Regulatory) asked Members if they wished to receive such reports in the future, or if notification of Street and House to House Collections via the monthly Members' Information Bulletin is sufficient.

RESOLVED that Members be advised of Street Collections and House to House Collections via the monthly Members' Information Bulletin only, and that the Licensing Officer reports any issues, when deemed necessary, to the Licensing Committee.

62. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT.

As there was no other urgent business to be discussed, the Chair closed the meeting.

(Meeting closed at 7.30pm.)