

LICENSING COMMITTEE

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

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

Officers in attendance: S Aston, S Bacon, L Dore and K France.

(Meeting opened at 6.32pm.)

(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 eleven members of the public present, this was not taken up).

37. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J R Anderson.

38. 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.

39. MINUTES OF THE MEETING HELD ON 4TH NOVEMBER 2015

RESOLVED that the Minutes of the meeting held on 4th November 2015 be approved.

40. MINUTES FOR ACTION

With reference to the Roadside Catering Policy the Committee was advised that work had commenced and was on-going. Site visits needed to take place. The changes will take time as it is a large task to undertake.

RESOLVED that the Minutes for Action be received.

41. OUTSTANDING MINUTES LIST

With reference to Minute 26(e) CCTV in Hackney Carriage/Private Hire Vehicles, the Committee was reminded that any decision had been deferred to September 2016.

RESOLVED that the Outstanding Minutes List be received.

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

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

(a) Fees and Charges for Licences 2016/17

Members were presented with a report which asked them to consider the proposed increase to the present level of fees and charges for Licences for the financial year 2016/17. A review is undertaken by the Committee on an annual basis in accordance with Council policy and while Cabinet approved an increase in fees and charges at its meeting on 1st December 2015, those relating to Licences were only approved subject to the approval by the Licensing Committee.

The Fees and Charges 2016/17 report which was presented to Cabinet was appended to the report along with a list of licence fees under the responsibility of the Licensing Committee. The Appendix detailed fees and charges for 2014/15, 2015/16 and proposals for 2016/17. The Committee was advised that in future, income will be allocated a specific financial code for ease of reference and this will assist in assessing if the fees charged are appropriate for the amount of officer time spent administering each licence.

RESOLVED that the fees and charges for Licences for 2016/17 as set out in Appendix C of the report be approved.

(b) Revised Gambling Act Statement of Principles

Members were presented with a report which sought approval to amend the Council's Gambling Act Statement of Principles following statutory consultation. The Statement of Principles is valid for a maximum of three years although it can be reviewed by the authority at any time. The previous statutory three year period began in January 2013 so consequently the authority must review, adopt and publish a new Statement by 31st January 2016.

Section 349 of the Gambling Act 2005 requires the licensing authority to consult widely on a revision to its Statement. This includes a number of statutory consultees which are set out in the Gambling Act.

Members of the Committee approved the Draft Statement for the purpose of consultation at its meeting on 16th September 2015. The Statement was then circulated to consultees with the consultation ending on 30th November 2015.

The Committee was advised only one response had been received and this was from a solicitors on behalf of The Association of British Bookmakers. A copy of the response letter was appended to the report. The Principal Solicitor (Licensing and Regulatory) had consulted with other Nottinghamshire authorities in relation to the points raised, in the letter, concerning advertising and new applications for licensing premises close to sensitive areas or developments. It was considered no changes needed to be made. The revised Gambling Act Statement of Principles was appended to the report.

RESOLVED that the Council's revised Gambling Act Statement of Principles 2016-19 be approved.

(c) Safeguarding Training for Hackney Carriage / Private Hire Drivers

Members were presented with a report to consider whether or not the Council should introduce mandatory safeguarding training and an assessment as part of the criteria for verifying that applicants are fit and proper persons to hold a Hackney Carriage/ Private Hire Vehicle driver's licence.

Following many recent press reports relating to child sexual exploitation and vulnerability issues it has been proposed that councils offer mandatory training to Hackney Carriage / Private Hire vehicle drivers to ensure they not only have an understanding of the issues, but are also able to act as the eyes and ears of the community to assist in prevention of such issues. Reports on issues in nearby Rotherham indicated that licenced vehicles played a prominent role which subsequently resulted in a significant impact on public confidence in the drivers. Members were advised on the importance of public confidence being restored so that drivers are seen as part of the solution and not the problem.

Licensing authorities in Nottinghamshire, in conjunction with the Nottinghamshire Safekeeping Board and Nottinghamshire Police, have developed a short training programme specifically for licenced Hackney Carriage / Private Hire drivers. Drivers will be able to book into any of the sessions run by the following district councils: Bassetlaw, Newark and Sherwood, Broxtowe, Mansfield, Rushcliffe and Ashfield. All drivers/applicants will have to undertake and pass a test to confirm their understanding of the issues and how to address them. It is proposed that all drivers will have completed and passed the course either when their licence is due for renewal or as part of the application for new applicants.

The Committee was advised that most licences issued by the Council are valid for three years therefore it will take three years before all drivers have undertaken their training. If drivers/applicants fail the test they are able to re-sit twice (meaning they have sat the assessment 3 times in total) in an attempt to pass. If they are unable to pass in three attempts they will have to wait twelve months before applying again. It is proposed the Licensing Department issues a certificate to drivers after they have successfully passed the training assessment and that the Department only accepts certificates that are dated six months from the date it was granted.

Members were advised the proposed fee to be charged for each Safeguarding Training Session/Assessment undertaken by a driver is a maximum of £45. Details of other costs and requirements for current and new driver applications were detailed in the report.

In response to queries the Committee raised they were advised: the drivers have to pay each time they undertake the training session and assessment. While on-line training is an option, face-to-face training is preferred as it can be verified who has sat the assessment; if members wanted to explore online options there would be an additional cost in setting up a service with a provider, enquiries could be made the company who are providing the Council with the online DBS checks; the training and assessment is not due for current drivers until their badge is due for renewal; Members can attend any of the training sessions across the county to observe (dates to be confirmed); anyone with learning difficulties can have assistance with reading the test questions; the police are currently offering their training services free of charge to keep costs to a minimum; £45 is the maximum fee for the training session and assessment - it could be less than this.

RESOLVED that:

1. Applicants/renewals for Hackney Carriage / Private Hire Vehicle driver's licence shall be required to undertake a mandatory safeguarding training and assessment once the training is available in the Nottinghamshire District. This is to ensure that applicants are

fit and proper persons to hold a Hackney Carriage / Private Hire Vehicles driver's licence.

2. Applicants/drivers who fail the assessment part of the training 3 times will have to wait 12 months before re-attempting the training
3. Applicants/drivers will produce to the Licensing Department, with their application confirmation, that they have passed the Nottinghamshire Safeguarding Training Assessment in the past 6 months.
4. Applicants will only be able to undertake the training and assessment at a course offered by one of the following organisations:
 - 6.1.4.1 Bassetlaw District Council
 - 6.1.4.2 Newark and Sherwood District Council
 - 6.1.4.3 Broxtowe District Council
 - 6.1.4.4 Rushcliffe District Council
 - 6.1.4.5 Ashfield District Council
 - 6.1.4.6 Mansfield District Council
5. For drivers who are going through the renewal/application process at the time the training becomes available it shall become a condition of their licence to complete the training within a period of 3 month from the date of grant. If the drivers fail to complete the training in this period the Principal Solicitor is given delegated authority to suspend their licence until the training and assessment are completed (the assessment has to be passed).
6. The Principal Solicitor (Licensing and Regulatory) is given delegated authority by the Committee to set the costs for the training and assessment to a maximum of £45

(d) Tacit Consent Policy for Licensing

Members were informed of the changes which need to be implemented in relation to the Provision of Serviced Regulations 2009 (S.I 2009 No 2999) concerning tacit consent. Tacit consent was introduced under the EU Services Directive (2006/123/EC) with the aim (in relation to Licensing) to ensure process meets requirements relating to clarity, timescales and other matters. The Directive was introduced into UK legislation by the Provision of Serviced Regulations 2009 and the relevant part for Licensing Regimes is Part 3 which deals with "authorisation schemes".

Regulation 19 has been considered by the Principal Solicitor (Licensing and Regulatory) in reference to the processing of licence applications as this is where the principle of tacit consent derives from. It states that the licensing application process must ensure that applications are processed "as quickly as possible and, in any event, within a reasonable period running from the time when all the documentation has been submitted".

A list of all the types of licenced/consents issued by the Licensing Department was included in the report. The Committee was asked to implement the proposed Tacit Consent Policy appended to the report, to ensure that the Licensing Department are compliant with Regulation 19 of the Provision of Service Regulations 2009.

In response to queries the Committee was advised: the 40 day clock for processing an application commences when all documentation including the fee has been accepted by the Licensing Department; Botox treatment is dealt with under Environmental Health registration; there is no annual fee or check for establishments providing tattoos or acupuncture; there is no data available on the number of applications that have not been dealt with within 40 days.

RESOLVED that the Tacit Consent Policy, for the Council's Licensing Department dated January 2016 be implemented with immediate effect.

(e) Licensing Act 2003 – Suspension of Premises Licences / Club Premises Certificates for Non-Payment of Annual Fees 2015

Members were presented with a report which provided an update on the number of premises licenses which have been suspended for non-payment of annual fees.

Prior to the amendment of the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2012, non-payment of the annual fee was only recoverable as a civil debt and the premises licence or club premises could legitimately continue to trade. Following the amendment to the Act, the Licensing Authority is able to suspend the licences and certificates of licence holders until the debt is paid. Once the fee is paid, the licence is automatically reinstated.

The report advised that the Licensing Authority sent out a total of 346 invoices in October 2015 for which annual fees were due for payment on 24th November 2015. On 30 November 2015, letters were sent to those licence holders who had failed to make payment informing them that their licence would be suspended if payment was not received by 7 December 2015. On 14 December 2015, a letter was sent to those licence holders who had failed to make payment and advised that, in accordance with S55A and S92A of the Licensing Act 2003, their premises licence was now suspended and no licensable activities were able to take place until the fee was paid in full. The letter also reminded that it was an offence to undertake licensable activities while their licence was suspended and advised the penalties which could be incurred.

Of the 346 invoices issued, 62 were not paid so these licences were suspended. Some of these have been suspended in previous years, e.g. businesses that have closed but do not wish to surrender the licence as if they are sold, payment can be backdated and the licence reinstated. One premise that is operational had failed to pay so Enforcement Officers will be monitoring it to ensure it does not breach its suspension. Three premises surrendered their licences.

The Principal Solicitor (Licensing and Regulatory) praised the work of the Licensing Admin Support Officer and the Enforcement Officer for their work relating to premises licensing.

RESOLVED that the report be noted.

43. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RESOLVED that, in accordance with Part 1 of Schedule 12A of the Local Government Act 1972, and after considering the public interest test as set out by the officer in the body of the report, Members agreed that the following items of business involved the likely disclosure of exempt information as defined in Paragraphs 1 and 3, and therefore, in accordance with Section 100A of the Act, the press and public be excluded from the meeting:

Agenda Item No. 7(a) – Sherwood Chauffeurs Application for Exemption from Displaying PHV Plates/Door Signs - Paragraph 3.

Agenda Item No. 7(b) – Suspension or Revocation of a Hackney Carriage / Private Hire Driver's Licence and Private Vehicle Operator's Licence Following Conviction - Paragraph 1.

SECTION B – ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None.

Other Decisions

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

(a) Application for Exemption from Displaying PHV Plates/ Door Signs

Members were asked to consider and determine an application for an exemption under Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 in respect of a PHV licence condition to display private hire vehicle plates and door signs on a new vehicle. The applicant was present at the meeting.

RESOLVED that an exemption under Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 in respect of a PHV licence condition to display private hire vehicle plates and door signs on a new vehicle be granted for the duration of the PHV licence.

(b) Suspension or Revocation of a Hackney Carriage / Private Hire Driver's Licence and Private Vehicle Operators Licence Following Conviction

Members were asked to consider and determine what action to take, if any, against the holder of a combined Hackney Carriage/Private Hire Driver's Licence and a Private Hire Vehicle Operators Licence. The holder of the licences was not present.

RESOLVED that both the Hackney Carriage / Private Hire Driver's Licence and Private Vehicle Operators Licence be permanently revoked.

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

(a) Thanks to Officers

RESOLVED that thanks be recorded to the Principal Solicitor (Licensing and Regulatory) and officers for their excellent work.

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

(Meeting closed at 7.50pm).