

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 19 MARCH 2019 FROM 7.00 PM TO 8.20 PM**

Committee Members Present

Councillors: Barrie Patman (Chairman), Bill Soane (Vice-Chairman), Rachel Burgess, Lindsay Ferris, Mike Haines, John Halsall, Emma Hobbs, John Jarvis, Abdul Loyes, Malcolm Richards, Chris Smith and Oliver Whittle

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Charlie Fletcher, Acting Lead Officer, Public Protection Partnership
Julia O'Brien, Licensing Team Leader

35. APOLOGIES

Apologies for absence were submitted from Amand Ward and Councillors Chris Bowring and Rachelle Shepherd-Dubey.

36. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 13 March 2019 were confirmed as a correct record and signed by the Chairman.

Matters arising

Out of area operators

Councillor Burgess referred to page 9 of the agenda and asked about the final wording of the correspondence and whether the Committee had been consulted via email.

Councillor Patman stated that he had the draft letters and offered to show them to anyone who was interested. Councillor Burgess asked to review the letters at the end of the meeting.

Fees and Charges

Councillor Burgess asked if any objections had been received in relation to the Fees and Charges (page 11 of the agenda). Charlie Fletcher, Acting Lead Officer Public Protection Partnership confirmed that no objections had been received.

Criteria Policy for Licensed Vehicles

Charlie Fletcher asked for further clarification from the Committee in relation to the Criteria Policy for Licensed Vehicles. He wanted a direction as to how the new policy should apply to vehicles that were licenced before the adoption of the new policy.

Charlie Fletcher clarified that under the new policy any vehicle could 'in theory' carry on with its licence indefinitely (provided it was mechanically fit and it passed the inspection). Under the new policy vehicles were licenced up to 10 years (this was previously 15 years), and at this point vehicles needed to undergo an inspection in order to keep their licence.

After a brief discussion the Committee agreed that any vehicle that had been licensed before the adoption of the new policy should be allowed to keep its licence to 15 years, provided they passed the inspection test and were in good order.

37. DECLARATION OF INTEREST

There were no declarations of interest.

38. PUBLIC QUESTION TIME

There were no public questions.

39. MEMBER QUESTION TIME

There were no Member questions.

40. GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY AND PRIVATE HIRE TRADES

Charlie Fletcher stated that the legislation provided that a Licensing Authority must satisfy themselves before a licence is granted that the applicant for a driver or operator licence is a fit and proper person. Part of the fit and proper test was considering criminal convictions, however, there was no national or statutory guidance to assist local authorities in making a decision in relation to criminal conditions timescales.

Charlie Fletcher stated that the Institute of Licensing (IoL) had recently published a 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'. The IoL hoped that if the standards within their guidance document were widely adopted, this would result in a degree of national uniformity, which served the public interest in consistency, certainty and confidence in the system of licensing.

Charlie Fletcher pointed out that the report included guidance in applying the fit and proper test in relation to criminal convictions, listing the period of time in which a licence would be granted, from completion of sentence or from the date of conviction.

Charlie Fletcher stated that the report was proposing that a consultation be carried out with the trade in relation to adopting the guidance into the Council's own policy.

During the discussion of the item the following points were made:

- In response to a question Charlie Fletcher stated that the LoL guidance superseded the Council's guidance;
- In response to a question Charlie Fletcher stated that licence holders underwent Disclosing and Barring Service (DBS) checks every three years;
- In response to a question Charlie Fletcher stated that the local authority could deviate from the national guidance if there was a good reason to do so;
- In response to a question Charlie Fletcher stated that the consultation would be sent directly to the trade as well as being published to the website and social media pages;
- Councillor Smith pointed out that it was important to consult with users too;
- In response to a question Charlie Fletcher stated that it was best practice to carry out a consultation before implementing any changes to the policy;
- Charlie Fletcher informed that the local authority was looking to join the new national anti-fraud database;
- In response to a question Charlie Fletcher stated that Uber was regulated by Transport for London.

Members of the Committee were in agreement that this proposals should go out to consultation.

RESOLVED That:

- 1) The guidance published by the IoL is noted;
- 2) A consultation is carried out with the trade on the proposals that;
 - a) The new guidance is adopted by the Council;
 - b) The time periods in relation to convictions and cautions included within the guidance are incorporated into the Council's existing Criminal Convictions Policy, to replace those time periods previously agreed
- 3) The results of that consultation be brought back to the Committee for further consideration.

41. DISABILITY AWARENESS TRAINING

Charlie Fletcher stated that the report proposed the introduction of regular refresher training for licence holder, in addition to initial training at the time the licence was first issued.

During the discussion of the item the following comments were made:

- Charlie Fletcher stated that hackney carriages were not allowed to refuse passengers on wheelchairs;
- Charlie Fletcher stated that hackney carriages were not allowed to refuse guide/assistance dogs, the only exceptions were fear or allergies, but evidence was needed in those situations;
- In response to a question Charlie Fletcher stated that the cost of the course was approximately £50 per driver;
- Some Members were of the opinion that the consultation should be extended to include the general public and bodies such as the association of the blind;
- It was clarified that the proposal was to make the refresher training mandatory every three years;
- In response to a question Charlie Fletcher stated that currently there was no such training in Bracknell but it was hoped that this would be introduced soon, they were currently consulting;
- In response to a question Charlie Fletcher stated that there was not test/assessment on completion of the course.

Member of the Committee agreed that the refresher Disability Awareness training should be encouraged and that as part of the process a consultation should be carried out.

RESOLVED That the Committee agrees to the Licensing Department carrying out a consultation with the trade in relation to disability awareness refresher training for licence holders.

42. ANIMAL LICENSING UPDATE

Charlie Fletcher stated that on 1 October 2018 the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. These regulations were made under powers conferred under the Animal Welfare Act 2006, and replace a number of pieces of legislation. The Committee was receiving this report for information only.

During the discussion of the item the following points were made:

- Charlie Fletcher stated that a profit of £1000 or below per year did not constitute a business, and therefore no licence was required; also, if no modifications were made in the house to accommodate more animals it did not require a licence;
- Councillor Patman pointed out that there was a lot of information on the website and this report was for information only;
- In response to a question in relation to the sale of puppies and kittens, Charlie Fletcher stated that inspections were carried out to ensure that the guidance was being complied with;
- Charlie Fletcher stated that there was a difference between pet shops and breeders, and that pet shops would be banned from selling puppies under Lucy's law;
- Lucy's law would be introduced 'when parliament time allows', so it was a matter of time;
- In response to a comment, Charlie Fletcher stated that the local authority did not have the power to set higher standards to the national regulations, however businesses could set themselves higher standards.

RESOLVED That the report be noted.

43. LICENSING SUB-COMMITTEE HEARINGS UPDATE

The Committee received the report on pages 65-66 of the agenda, which contained details of the number of Licensing and Appeals Sub-Committees carried out in 2018.

Councillor Patman stated that it would have been useful to include more information about the Sub-Committees, including the names of premises.

Luciane Bowker, Democratic and Electoral Services Specialist stated that the details of the Sub-Committees were available online in the Council's website.

RESOLVED That :

- 1) The report be noted; and
- 2) Future reports would include more information about the nature of the Sub-Committees

44. WOKINGHAM BOROUGH SITE MANAGEMENT AGREEMENT

Charlie Fletcher stated that a Site Management Agreement was an agreement between the IoL and the Council to monitor and control the prevalence of face to face direct debit collectors. Having an agreement in place gave the authority a degree of control over this activity that was not restricted by legislation.

During the discussion of the item the following comments were made:

- Councillor Burgess was interested to know if this was an issue in Wokingham. Charlie Fletcher stated that at the moment there was no control over it, and for that reason the local authority would not log in any complaints, so it was difficult to know if there was a problem and to what extent. He stated that with the new town centre the agreement was likely to be needed;
- Charlie Fletcher stated that only members of the institute of fundraising, of which there were 600 organisations, would be part of this agreement;

- Members wondered how people would know which organisations were members of the agreement. Councillor Hobbs stated that some charities publicised this in their marketing material.

After the discussion of the item, Members were in agreement to proceed with the development of the agreement.

RESOLVED That: The Committee wished the Licensing Department to work with the Institute of Fundraising to develop a Site Management Agreement for Wokingham Borough.

45. FORWARD PLAN

The Committee noted the forward plan and the future dates of meetings.

Councillor Whittle asked that a report about ways in which licensable activities could potentially be encouraged to reduce air pollution be brought to the Committee for discussion. Members of the Committee agreed that air pollution was a problem in certain areas in the Borough and were in agreement to have a discussion at the next meeting.

Councillor Patman reminded Members that they could email him or the Licensing Officers at any time to request items to be included in the agenda.

Councillor Halsall stated that going forward, he intended to bring policy development to this Committee for discussion. He stated that Wokingham needed to increase its participation in the Public Protection Partnership.

46. ANY OTHER BUSINESS

Councillor Burgess asked to review the response letters to drivers in relation to out of area operators before they were sent out.

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