

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 19 OCTOBER 2022 FROM 7.00 PM TO 8.38 PM**

Committee Members Present

Councillors: Beth Rowland (Chair), Sarah Kerr (Vice-Chair), Peter Dennis, Mike Smith, Alistair Neal, Morag Malvern, Rachel Burgess, Bill Soane, Chris Bowring, Michael Firmager, Abdul Loyes and Shahid Younis

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Mike Harding, Licensing Officer
Keiran Hinchliffe, Service Manager for Licensing and Enforcement
Ed Shaylor, Head of Enforcement and Safety

10. APOLOGIES

There were no apologies for absence.

11. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 23 June 2022 were confirmed as a correct record and signed by the Chair.

Matters arising

It was noted that there was a spelling error on page 9 of the agenda pack, it should read *Councillor Burgess*.

It was noted that the agenda did not contain a recommendation tracker, as per the Committee's request. Luciane Bowker, Democratic and Electoral Services Officer apologised for the omission of the tracker and would ensure this was included in future agendas.

Ed Shaylor, Head of Enforcement and Safety provided an update in relation to the Committee's recommendation to apply a reduction to the licence fees charged in 2021/22. The Executive Member for Environment, Sport and Leisure and the Executive Member for Finance were considering this recommendation and this would be determined via an Individual Executive Member Decision (IEMD).

12. DECLARATION OF INTEREST

There were no declarations of interest.

13. PUBLIC QUESTION TIME

There were no public questions.

14. MEMBER QUESTION TIME

There were no Member questions.

15. FEES AND CHARGES FOR LICENSABLE ACTIVITY 2023/24

Ed Shaylor presented the report which was set out in agenda pages 15-36.

In the previous year, the Committee had recommended that the fees and charges remained unchanged, being mindful that the licensing services were coming back in-house.

An increase of 9.9%, based on the Consumer Price Index (CPI) was being proposed for 2023/24 (for the licensable activities that are within the Council's gift to determine). The income from licensing fees is supposed to offset the costs to the Council of administering the licensing service.

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

- Councillor Burgess asked for evidence of increases in the cost of the team;
- Ed Shaylor explained that the cost of running the service was currently more than the income received. The fee income from 2019/20 was £290k, this was being forecast to be £250k this year. He agreed that the staffing costs were unlikely to increase by 9.9%, but other costs to the Council would increase, perhaps by more than 9.9%. The basis of the proposal was that the cost of running the service was more than the current income. This had been the case for this year and the past two years;
- Councillor Firmager asked if there was any scope to reduce the cost of running the service;
- Ed Shaylor explained that infrastructure and overheads costs could be included in the cost calculation of running the service. The cost calculation of the hourly rate to process an application had been undertaken some years ago and stood at £59, it was proposed to increase this to £65. The cost calculation of a licence application included the number of hours spent processing a licence and enforcing it;
- Councillor Younis asked for more detailed information on the calculation of the proposed increase, he also asked if there were any financial benefits with bringing the service in-house;
- Ed Shaylor informed that the majority of the cost was staffing, it was difficult to accurately itemise the cost of the Council's overheads for each service. The process of bringing the service in-house had been driven by a desire to improve the quality of it and make it locally responsive, not by financial reasons;
- Councillor Younis asked if it was possible to compare the cost before, with the PPP and now with the service being run in-house;
- Ed Shaylor explained that under the PPP arrangements West Berkshire provided the licensing service to West Berkshire, Wokingham and Bracknell, and it would be difficult to ascertain the exact cost to Wokingham. In terms of the current staffing structure, there were: a licensing manager, two licensing officers and one full time and one part-time licensing processing officers. There were 3.5 customer delivery officers working on licensing work too;
- Councillor Loyes asked how the estimated £250k income was calculated;
- Ed Shaylor explained that as of September this year £125k had been received in income, this was being doubled to forecast £250k to the end of the financial year;
- It was predicted that costs would increase for the Council, and the CPI was being used to estimate the likely increase;
- Councillor Kerr was of the opinion that more information was needed for the Committee to make an informed recommendation to the Executive, and asked the following questions:
 - What was the breakdown of costs?
 - What was break even for the service?
 - Had West Berkshire been able to cover the costs of running the service or had they had to use the general funds from reserves to fill the gap?
 - Are we forecasting having to use general funds to fill the gap this year?
 - What is the breakdown of the currently hourly rate cost in Wokingham?

- What is the cost of running the service in-house? Is it costing more than before?
- Ed Shaylor suggested answering those questions in a separate report;
- Councillor Kerr made a recommendation that the Committee receives a report containing the full information about the costs involved in running the service;
- Keiran Hinchcliffe, Service Manager for Licence and Enforcement pointed out that decisions had had to be made when leaving the PPP, without the full information at the time about the costs. It would only be possible to ascertain factually the full costs at the year end. However, it was known that the service was currently not breaking even;
- Councillor Kerr stated that some assumptions about costs would have been made in drafting this proposal. She suggested that perhaps there should not be an increase in the fees until the full costs at year end were fully known;
- Councillor Soane asked if there was any increase being proposed for the statutory fees. Keiran Hinchcliffe explained that those fees were set by the central government and the local authority was not able off-set the balance of statutory fees against the non-statutory fees;
- Ed Shaylor stated that the statutory fees did not cover the cost of running the service, as an example he pointed to page 23 of the agenda and the cost of Temporary Event Notices (TENs) which was £21 only. Those licensing fees had been set in 2005 and had not been increased since;
- Councillor Bowring was concerned that the level of inflation was unpredictable and the figures may be different again by the times these fees are submitted for approval by the Executive. He asked if any of these licences were discretionary and if there were any considerations on cutting the costs of running the service;
- Ed Shaylor informed that modern software was capable of processing paperless applications and increase efficiency, thus reducing the costs. However, the cost of the software was considerable and would have to be factored into the cost of the licence;
- Councillor Burgess stated that most of the cost was related to staffing, and therefore it was possible to accurately forecast;
- Ed Shaylor confirmed that the staffing costs were being forecast in-year as part of budget monitoring;
- Councillor Smith asked if it was possible to produce a report with the details of cost and income by each activity;
- Ed Shaylor explained that the discretionary fees gave an indication of the amount of work involved as the number of hours had been worked out some time ago. He pointed out that to work out the amount of hours for each licence would incur a large amount of work for the team, but if there was interest in finding out more about a particular licence, this could be done;
- Councillor Younis agreed with the points raised previously, that more information was needed to for an informed decision. He was surprised that more technology was not already being used to process applications. He mentioned that there was an option to 'pay as you go' for software, without having to buy it upfront;
- Councillor Dennis would like to see a breakdown of the percentage of time spent on statutory licences and non-statutory licences. He also asked if there were any discrepancies within the discretionary licences, and if it was possible to use the licence fees as a social deterrent

Ed Shaylor was concerned about the amount of time it would take to produce a report answering all the questions raised during the discussion, in view of the timelines for the next meeting on 30 January 2023. He suggested either reducing the scope of the report or accepting that a more comprehensive report would take longer to produce.

The Chairman expressed concern that the questions raised today had not been asked previously, when the decision was made to bring the service back in-house.

Councillor Kerr informed that this Committee had not been consulted on the decision to leave the PPP.

After much discussion, the Chairman proposed that a simplified report be brought to the January meeting of the Committee. The Committee would then be able to make a more informed decision. At the same time, work could be undertaken to gather more information for the next year. She was seconded by Councillor Kerr. Upon being put the vote, most Members voted in favour of this proposal.

Ed Shaylor explained that the timelines would be tight for the submissions to the Council's Budget. The Chairman suggested that if this report and information was ready before 30 January, that an extraordinary meeting could be arranged.

Councillor Kerr pointed out that this Committee could only make recommendations, and she expected that the Executive would receive the additional information in order to make a decision.

RESOLVED That:

- 1) A report including information on costs and income would be brought to the 30 January meeting, or earlier to an extraordinary meeting if possible; and
- 2) Work would be undertaken to understand the full cost details of running the service would be carried out, in preparation for next year's report.

16. TAXI AND PRIVATE HIRE DRAFT POLICY REVIEW

Kieran Hinchcliffe presented the Taxi and Private Hire Review report which was set out in agenda pages 37-153.

The amendments which had been requested at the last meeting of the Committee had been incorporated into the revised document.

Rachel Lucas, Legal Advisor to the Committee highlighted some issues that still remained in the current document, as follows:

Page 88 of the agenda

- paragraphs 1.48 and 1.49 – DVLA points were not a conviction, so the wording needed to be changed.

Page 111 of the agenda

- paragraph 1.65 – the law in relation to child seat belts and restraints referred to the age 12 and or taller than 135cm, so the age needed to be changed to mirror the legal position.

Page 116 of the agenda

- Paragraph 1.19 – it should read s53 A(8)
- Paragraph 1.21 – should read s61(2)

Page 120 of the agenda

- Paragraph 1.9 – it should read s53 A(8)
- Paragraph 1.11 – it should read s61 (2)

Kieran Hinchcliffe informed that the report would be amended, in line with the legal advice received.

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

- Councillor Kerr pointed to:
- Page 68 of the agenda, paragraph 3.45, and stated that this was still not sufficiently clear. Kieran Hinchcliffe agreed to improve the wording;
- Page 109, paragraph 1.54 – what was the reasoning behind it? Other dress code mentions were open to interpretation.
- Ed Shaylor agreed that the references to dress standards needed reviewing and some should be taken out;
- Councillor Younis stated that the rules should be simple to follow and easy to implement, based on common sense. He asked if these rules had been written by WBC or if they had been adopted from somewhere else?
- Kieran Hinchcliffe explained that the document was based on WBC's current policy. A licensing lawyer had been employed to give advice on the policy. Also, this Committee had been consulted on the content;
- Councillor Smith pointed to page 81 of the agenda, and asked for clarification on paragraph 1.2;
- Rachel Lucas explained that 1.2 referred to case law that said that it was not for the Council to judge the merits of a conviction;
- Councillor Smith asked for clarification on page 83, paragraph 1.17 – how could temperament be measured?
- Rachel Lucas explained that, for example, if a person was called in for an interview with a licensing officer because of an allegation of misbehaviour, and this person was then aggressive or abusive towards the officer, this would be judged as the individual having a bad attitude and temperament;
- Councillor Firmager pointed to page 81 of the agenda, and grammar mistakes in paragraphs 1.1 and 1.3, and recommended thorough proof reading;
- Ed Shaylor confirmed that the document would be proof read before it went out to consultation;
- Councillor Burgess noticed that the drivers were put to many tests, she asked if there were any new tests being proposed? She also pointed to page 53, paragraph 2.7 – she stated that 'sufficient time' was vague and a specific timeline should be used to avoid disputes;
- Kieran Hinchcliffe accepted the point about specifying the time. With regards to new tests, he informed that there were no new tests in the policy.

After a robust discussion and upon being put to the vote, most members voted in favour of the recommendation, provided that the policy be revised to include the changes requested during the meeting.

RESOLVED That:

- 1) The Licensing and Appeals Committee approves the revised policy, with the amendments suggested during the meeting; and

- 2) Delegates to the Director of Place and Growth, in consultation with the Lead Member of the Executive, to release the revised policy for public consultation.

17. ANY OTHER BUSINESS

Councillor Kerr asked if it was possible to consider having a forward plan in the agendas going forward.

Ed Shaylor informed that a review of the Statement of the Licensing Policy was in the forward plan for the next year.

Councillor Kerr proposed that a review of licensing gambling be brought to the Committee for discussion, with a view to potentially finding ways to protect vulnerable people. She was seconded by Councillor Burgess.

The Chairman suggested including a review of alcohol licences too.

Upon being put to the vote, Councillor Kerr's proposal was approved.

RESOLVED That a review of gambling licences would be put in the forward plan.