

DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 24 JUNE 2019

Councillors Present: Adrian Abbs, Peter Argyle, Phil Barnett (Vice-Chairman), Jeff Beck, Dennis Benneyworth, Graham Bridgman, James Cole (Chairman), Tony Linden, David Marsh and Martha Vickers

Also Present: Suzanne McLaughlin (Senior Environmental Health Officer), Sean Murphy (Public Protection Manager), Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Billy Drummond and Councillor Joanne Stewart

PART I

4. Minutes

The Minutes of the meetings held on 21 February 2019 and 21 May 2019 were approved as a true and correct record and signed by the Chairman subject to the inclusion of Councillor James Cole being listed as being present at the 21 February 2019 meeting.

5. Declarations of Interest

There were no declarations of interest received.

(Councillor Martha Vickers arrived at 4.40pm)

6. Convictions Guidance

The Committee considered a report (Agenda Item 4) which set out proposals that had been consulted upon since the Committee Meeting on the 11 February 2019. Officers had considered the responses and where appropriate had amended the guidance issued by the Institute of Licensing. The responses to the consultation were included in the paperwork at Appendix H. The changes were summarised in Appendix F. It was explained that in excess of 300 emails had been sent out and only 11 responses had been received.

Members were being asked to consider the document and decide if any additional changes were needed.

Suzanne McLaughlin explained that it was being proposed that the fit and proper test would be applied to existing licence holders and new applicants for Hackney Carriage driver licences, Private Hire driver licences, and Private Hire Operators licences. Officers were advocating that the Council's existing criminal convictions guidance document be replaced with a more comprehensive policy. The intention would be to work towards a national policy with minor changes to reflect local issues so that licence holders were subject to the same scrutiny irrespective of where the licence was issued in order to protect customers.

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Councillor James Cole noted that the authors of the Institute of Licencing guidance were eminent experts in this field and there he believed that cognisance should be taken of their advice.

Councillor Adrian Abbs noted that the revised rules would be applied to both new and existing licence holders and he queried if the legal implications of this had been looked into. Suzanne McLaughlin explained that legal advice had been sought and read out that advice .In essence the advice stated that both the guidance and case law set out that each case had to be determined on its own merits at the time and that there would be no blanket response to say that an applicant would not have their license renewed just because the Council's polices had changed. It was noted that this aspect was referred to in paragraph 1.4 of the policy which was set out on page 55 of the paperwork.

Members discussed potential concerns about applying the revised policy to existing license holders. Potentially existing licence holders that had been permitted to operate might no longer be able to do so due to changes to the exclusion periods as well as the introduction of new categories.

Sean Murphy explained that most licence holders renewed their licences every three years albeit that it was possible to renew it annually. If a crime was committed in the interim period the police would inform the Council. He reminded Members that the exclusions would only be applied where a licence holder was convicted. The decision to prosecute would be made by the Crown Prosecution Service. They would need to apply the public interest test and it was conceivable that not all cases would go to court.

Councillor Peter Argyle noted the requirement to consider each case on its own merits. He suggested that it might be useful to change the wording to 'up to x years' rather than 'at least x years'.

Councillor Martha Vickers commented that the Council also had a duty to protect the public who used the services as they could be vulnerable when using their services. The authors of the Institute of Licensing guidance were very knowledgeable on the subject and they would have given a lot of thought to the proposed timescales.

Councillor James Cole noted that there had only been a small number of responses to the consultation which could indicate support for the changes. A number of the responses did indicate support and in some instances actually advocated a more restrictive approach. Members considered all of the responses to the consultation.

Councillor James Cole queried what the other authorities in the Joint Public Protection Partnership's views were. Officers noted that Wokingham Borough Council would be considering the document the following day. Bracknell Forest Council had looked at the policy but had requested that it be brought back to a second meeting. In response to a question about the level of response to the consultation Officers reported that Wokingham had received a larger number of responses and that these responses generally were not supportive of the changes.

Sean Murphy stated that Members would need to balance the need to protect the public against the right of the licence holders to work. He reminded Members that many of the customers were vulnerable. He also noted the wish to work towards a national policy as licence holders could work wholly outside of the area they were licences in. Varying policies could lead to drivers choosing to be licensed in areas where the policies were

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more lenient. He also reminded Members that if an application was refused the applicant could appeal the decision in a Magistrate's Court.

Councillor James Cole queried how many refusals there had been in the previous financial year. Officers responded that there had been no refusals in West Berkshire. They commented that they were not very commonplace. It was however a sector that was not without risks and there had been a few cases involving license holders over the past few years.

Members debated whether more stringent conditions could or should be applied. They noted that if they deviated too far from the national guidance the policy might be subject to challenge. Members also noted that the trade had a vested interest in their customers having faith in them as operators.

Councillor Martha Vickers proposed accepting the revised policy. Members requested that the following changes be included in the document:

- Paragraph 1.3 (page 55) insert vehicle owners into the list;
- Paragraph 3.2 (page 56) be amended to include the ability for the licensing authority to ask for evidence of a criminal record check where an applicant had spent six or more months overseas;
- Consider tougher conditions for offences committed while 'on the job' versus offenses when not operating, the suggestion being to increase the time period from five to seven years;
- The wording in paragraph 4.1 be amended;
- The time periods around weapons crime be reviewed in a year's time;
- The policy to be reviewed annually.

RESOLVED that after considering the consultation responses the Council adopt the amended policy, subject to the inclusion of the additional amendments agreed at the meeting, as its policy position on the relevance of criminal convictions in determining whether someone is 'fit or proper' to hold Taxi or Private Hire Drivers Licence or Private Hire Operators Licence.

7. Licensing Annual Report

The Committee considered a report (Agenda Item 5) which set out the work of the Licensing Committee in 2018/19 as well as the work of the Licensing Service as delivered through the Public Protection Partnership.

Suzanne McLaughlin explained that Officers used a risk based assessment programme to visit licensed premises to check compliance and provide assistance and advice for those businesses. In 2018/2019 officers carried out 172 inspections, compared to 202 in 2017/2018 and 179 in 2016/2017. In addition the Licensing Section dealt with 199 complaints and requests for service in 2018/2019 (compared with 210 in 2017/2018 and 181 in 2016/2017).

(Councillor Graham Bridgman arrived at 5.56pm)

Suzanne McLaughlin noted that the service had set itself a baseline for 2018/19 for the first time to issue licences within statutory timescales or 5 working days from receipt of a complete and valid application. The service achieved this for 75.7% of the applications. This would be reviewed in 2019/20, including the increase in resources required to improve this delivery percentage. Councillor Jeff Beck queried what percentage of

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applications had to be returned. Officers agreed to provide this information to Members once they had the chance to look into it. **(SM to Action)**. Sean Murphy noted that the three organisations in the partnership used different operating systems which impacted negatively on resilience. Following the restructure which came into effect of the 01 April 2019 they would all be working to one manager which should help to improve resilience. Capacity was also being improved in the team.

Councillor David Marsh noted that Appendix D made reference to one application in 2018/19 for a dangerous wild animal and he queried what this related to. Officers agreed to look into this and to let him know. **(SM to Action)**

Members welcomed the comparative data across the three authorities. Councillor Graham Bridgman asked if there was any data available about fee income across the three authorities. Sean Murphy noted that fees and charges would be discussed at the next meeting and this could be considered as part of that work.

RESOLVED that the content of the report and Licensing Committee and Service related activity for 2018/19 be noted.

8. Licensing Committee Forward Plan

The Forward Plan was noted.

The Chairman stated that he would like to see an item included on the forward plan relating to the environmental impact of taxis.

Sean Murphy noted that following previous discussions on fees and charges a working group had been set up involving Members, Officers and trade representatives. The group had met twice already but he confirmed that another meeting was needed to go through the final proposals. This would need to take place within the following four weeks in order to get to an agreed position prior to the report coming to Committee for consideration prior to it going to full Council for approval.

Councillor Adrian Abbs asked what could be done to encourage a greener approach by the trade. Councillor Graham Bridgman explained that this would need to be addressed through the fees and not through fares.

Officers noted that the Forward Plan would need to be amended on an ongoing basis.

(The meeting commenced at 4.30 pm and closed at 6.14 pm)

CHAIRMAN

Date of Signature