

## **LICENSING COMMITTEE**

**15 September 2016**

Present: Councillor K Crout (Chair)  
Councillor J Fahmy (Vice-Chair)  
Councillors S Bolton, A Dychton, K Hastrick, M Hofman,  
Ahsan Khan, R Laird, B Mauthoor, M Mills, A Rindl, G Saffery,  
D Scudder and M Turmaine

Also present:

Officers: Environmental Health and Licensing Section Head  
Business Compliance Officer (JM)  
Senior Solicitor  
Committee and Scrutiny Support Officer (AG)

### **1 Apologies for absence/ committee membership**

Apologies were received from Councillor Connal. It was agreed that the Chair send a card to her expressing sympathy for her recent bereavement.

### **2 Disclosure of interests (if any)**

There were no disclosures of interest.

### **3 Minutes**

The minutes of the meeting held on 29 February 2016 were submitted and signed.

### **4 Guidelines for the Grant, Revocation and Refusal of Hackney Carriage and Private Hire Drivers licences and Private Hire Operators Licences**

The Committee received the report of the Head of Community and Customer Services. The Business Compliance Officer introduced the report. He summarised the existing guidelines, explained the rationale for change, outlined the key changes and discussed the driver consultation process.

In response to questions from members, the Environmental Health and Licensing Section Head and Business Compliance Officer:

- Clarified that a driver being abusive to other motorists would result in an investigation by the Licensing Authority. Such circumstances may amount to an offence under Sections Four or Five of the Public Order Act and would fall within the policy; potentially resulting in a five year ban. If convicted of an affray the ban would be for ten years.
- Advised that the policy applied to all applicants – both for new applicants and to those who re-applied. It was explained how old criminal convictions would be dealt with in the application process.
- Informed the committee that, in respect of applicants living abroad, checks on suitability would be made through a Disclosure and Barring Service (DBS) check carried out by the police. Also, an applicant could obtain a Certificate of Good Conduct from their embassy.
- Advised that it was a condition of a licence that the holder notified the Licensing Authority of any conviction within 28 days. Furthermore, under common law, police could notify the authority of the conviction. If a driver did not inform the authority this could lead to a revocation of the licence.
- Clarified that the Licensing Authority did not have access to the update service as this was private – it was a matter for a driver to give permission to allow access. However, only one driver had signed up to the scheme thus far. The process for the passing of information from the DBS was explained and the committee was informed that drivers were encouraged to be open.
- Advised the committee that the driver training did not specifically include guidance on how to handle a disabled person - rather drivers should ask what the person needed in the first instance. The training covered safeguarding issues.
- Informed the committee that applicants paid a £97 fee for a licence.
- Explained how the severity of a sentence had an impact on the length of a ban and clarified that the determination of whether an applicant was 'fit and proper' to hold a licence predominantly related to convictions. However, circumstances where a person had been arrested on many occasions but not charged could also be taken in to account.

Members asked why a number of drivers were objecting to some aspects of the convictions policy. The Business Compliance Officer explained that on occasion

drivers could be the victim of crime and feared being involved in an incident resulting in a conviction. Drivers worked alone and did not know who their passengers were - adding to the risks. He clarified that the Licensing Authority would look carefully in to such circumstances and there would be flexibility if a conviction had resulted from self-defence for example.

The Environmental Health and Licensing Section Head explained that it was legitimate to take account of patterns of behaviour – this, an audit recommendation; hence why it was put in the policy. She clarified that the document was longer than the previous draft to ensure it was as clear as possible to drivers. She explained issues in relation to the criminal justice system that could impact on the holding of a licence.

In response to further questions from members, the Environmental Health and Licensing Section Head and Business Compliance Officer:

- Informed the committee that the response to the driver consultation was improved as compared to previous consultations. Furthermore, there had been a good attendance at the child sexual exploitation training with 140 drivers taking part. The Chair added that driver's association representatives put views forward at meetings.
- Clarified that a driver's previous history would not be taken in to account when conducting investigations so as not to prejudice the inquiry.
- Advised that a conviction and caution were, in principle, treated in the same way in terms of a ban – however, there was flexibility. An example of a recent case of causing actual bodily harm that resulted in a less than five year ban was provided to demonstrate how this flexibility operated in practice.
- Outlined how the investigation process operated and how investigations were ratified by differing levels of the Licensing Authority management having regard to the nature of an investigation.

RESOLVED that –

the committee adopts the new guidelines from 1<sup>st</sup> October 2016 to progress the working group's recommendations.

## **Environmental Health and Licensing Compliance Policy**

The Committee received the report of the Head of Community and Customer Services. The Business Compliance Officer introduced the report. He summarised the history of the existing enforcement policy, explained the new compliance policy (and the main changes) and the rationale for the change. He concluded by outlining the public consultation process.

In response to questions from members, the Environmental Health and Licensing Section Head and Business Compliance Officer:

- Clarified that the length of the public consultation was over the same time period as the driver guidelines consultation (discussed under the previous item). However, if significant change had been proposed there would have been a longer period of engagement. In this instance, the changes were more around language than approach.
- Explained that if a deadline for an action plan (where a breach had been identified that did not present an immediate risk to health) was not agreed the Licensing Authority would impose one. Action plans were determined dependent on a situation and through a risk based approach. The Licensing Authority would consider a prosecution, fixed penalty notice, improvement notice or the seizure of goods. Food permit issues were discussed by the officers and reassurance was provided that action plans were not just left in abeyance.
- Informed the committee that where a person had benefited from crime this was taken in to account when considering a prosecution. The Senior Solicitor explained how the Crown prosecutor's code was applied in such circumstances.

RESOLVED that –

member's approve that the Environmental and Licensing Compliance Policy be adopted on 19<sup>th</sup> September 2016.

## **Update Report on Disability Access Improvements for Taxi and Private Hire Passengers**

The Committee received the report of the Head of Community and Customer Services. The Business Compliance Officer introduced the report.

In response to member's questions, the Business Compliance Officer:

- Explained that it was disappointing that restructuring in Hertfordshire County Council (HCC) had resulted in no change to procurement planned until 2018 (at the earliest). It was agreed that the Chair would write to HCC expressing the committee's concerns over the matter. The Chair asked that county councillors exert what influence was possible in the circumstances.
- Clarified that drivers were trained on how to secure wheelchairs in vehicles. Training was conducted with the Hertfordshire Fire and Rescue Service in Stevenage where a suitable mock up vehicle was utilised. Members were advised to notify the Licensing Authority when they knew of occasions where proper securing did not take place.

In response to a question from the Chair, the Business Compliance Officer explained how the Licensing Authority would liaise with the various disability agencies to ascertain how the improvements were working in practice. It was agreed that a further update on progress be provided to the committee in the new-year.

The Environmental Health and Licensing Section Head thanked the Business Compliance Officer for all of his work on the disability issues. She advised the committee that Councillor Fahmy was to give a talk to the Greater London Authority in November on how equality matters in relation to taxis were progressed in Watford.

RESOLVED that –

the committee noted the current progress of the disability improvement project.

the actions requested be undertaken.

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### **Requirement for new drivers to undertake DVSA driving test**

The Committee received the report of the Head of Community and Customer Services. The Environmental Health and Licensing Section Head introduced the report. She explained that the Driver and Vehicle Standards Agency (DVSA) was withdrawing provision of the driving test from the end of December 2016 and prospective drivers would now have limited time to book an existing course (and from January 2017 would no longer be able to book a DVSA test). Consequently, the matter had been added as a supplementary item at the meeting to request a

change in the policy wording so that the test was one approved by the Council and not specifically a DVSA test. This would enable drivers to continue to be able to progress through the application process.

In response to questions from members, the Environmental Health and Licensing Section Head:

- Explained that an ordinary driving test and the DVSA test were basically the same. However, the DVSA test included an element in relation to dropping off passengers safely, additional questions on the Highway Code plus an eye sight test.
- Clarified that there were no financial implications arising from the report.
- Informed the committee that a plan to provide driving tests in-house at the Council was being considered; where there was the potential for income generation should this be appropriate.
- Advised that the current cost of a driving test was £75 to £90 and paid by the driver.

RESOLVED that –

any applicant for a driver's licence received after 15 September 2016 be required to undertake a taxi/private hire driving test approved by the Council.

Chair  
Licensing Committee

The meeting started at 7.30 p.m.  
and finished at 8.55 p.m.