

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 19 NOVEMBER 2015

THE MAIN HALL - FRIEND'S MEETING HOUSE

MINUTES

Present: Councillors Marsh (Chair), Horan (Deputy Chair), Cobb (Opposition Spokesperson), Deane (Group Spokesperson), Allen, Bell, Gilbey, Lewry, Moonan, O'Quinn, Page, Simson, C Theobald, Wares and West

PART ONE

10 PROCEDURAL BUSINESS

10a Declaration of Substitutes

10.1 There were none.

10b Declarations of Interest

10.2 There were none.

10c Exclusion of the Press and Public

10.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

10.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

11 MINUTES OF THE PREVIOUS MEETING

11.1 **RESOLVED** – That the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on 25 June 2015 be agreed and signed as a correct record.

12 CHAIR'S COMMUNICATIONS

Hackney Carriage & Private Hire Vehicles**Suspensions & Revocations**

12.1 The Chair reported that since the last meeting of the Committee:

1 driver had their Hackney Carriage Driver Licence revoked for no longer being a “fit and proper person”, their application for a Private Hire Drivers licence had also been refused;

2 drivers had their licences suspended on medical grounds;

4 drivers had received formal warnings; and

2 Drivers had their licences suspended on medical grounds;

4 Drivers had received formal warnings; and

A driver previously suspended pending the outcome of legal proceeding had been convicted for historic child sexual offences and had been sentenced to 16 years imprisonment.

Private Hire Operators Licence Application

12.2 On the 19th October a Licensing Panel considered an application for a Private Hire Operator from Uber Britannia Ltd. The Panel determined that a licence should be granted for 1 year. The licence was issued on the 5th November.

12.3 **RESOLVED** – That the position be noted.

13 PUBLIC INVOLVEMENT**13a Petitions**

13.1 There were none.

13b Written Questions

13.2 There were none.

13c Deputations

13.3 There were none.

14 MEMBER INVOLVEMENT**14a Petitions**

14.1 There were none.

14b Written Questions

14.2 There were none.

14c Letters

14.3 There were none.

14d Notices of Motion

14.4 There were none.

15 LICENCE FEES 2016/2017

- 15.1 The Committee considered a report of the Director of Public Health setting out the proposed licence fees and charges for 2016/17 relating to Street Trading, Sex Establishment Licences, Gambling premises, taxi licensing and other licensing functions.
- 15.2 In order to ensure that council tax payers were not subsidising work concerning licensing administration, income was raised by licence fees which aimed to cover the cost of administration of each regime within constraints of regulation. Licence fees should not be used to raise revenue. Officers had undertaken a further review of the way the charges were calculated so that they were now based on the most recent detailed analysis of officer time. The regulation of setting fees was detailed and changes as a result of legislation and cases; outlined.
- 15.3 Councillor Simson, noted there appeared to be a wide variation in the levels of increases being sought in relation to different licensable activities and sought clarification as to the rationale for this and confirmation that premises were treated holistically, rather than different activities being treated as separate tranches. Councillor Bell also requested clarification in respect of this matter.
- 15.4 Councillor West asked how it was determined what a reasonable/right level of service provision was and how did this authority compare when benchmarked against others. The Head of Regulatory Service, Tim Nichols, explained that these figures took account of the levels of ceiling applicable and sought to ensure that they were below that and covered all reasonable costs without giving rise to a surplus. The process was highly regulated and prescriptive and although (based on very different demographics across the country), there were significant fluctuations, overall this authority sat broadly in the middle and the levels charged were considered to reflect the different licensable activities across the city. The levels charged were intended to be reasonable but also to protect the Council's position whilst not reflecting officer time expended and enforcement work which needed to be undertaken.
- 15.5 Councillor Simson responded that she accepted the explanation given and noted that the level of fees charged was kept under review. For clarity she considered that the phrase "as appropriate" as set out in recommendation 4 should be removed and replaced by

“no more than a maximum of”. Members were in agreement and that change is reflected in the wording set out in the resolution below.

15.6 **RESOLVED** - That the Committee approves the following licence fees:

- Hackney carriage driver fee, hackney carriage vehicle fee, private hire driver fee and private hire vehicle fees all remain the same.
- Sex entertainment venues and sex establishments remain unchanged
- Street trading fees (street artists & misc. short term) - decreased by -5%.
- All Gambling Act 2005 fees – increased by no more than a maximum of 20%.

16 **HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS BLUE BOOK REVIEW – 4TH EDITION**

- 16.1 The Committee considered a report of the Director of Public Health which sought to review byelaws, conditions, advice and information for Hackney Carriage and Private Hire Drivers, Vehicles and Operators contained in the blue handbook (The Blue Book).
- 16.2 The Head of Regulatory Services, Tim Nichols, explained that the handbook was designed to combine many bye laws, conditions, advice and information for hackney carriage and private hire drivers, vehicles and operators information previously kept in various and separate forms and had first been approved by committee in February 2007. Following the publication of the Casey report into child sexual exploitation in Rotherham, cases of child exploitation in Oxford, Birmingham and in other cities as well as some recent cases in Brighton & Hove it had become apparent that the handbook needed revision with a greater emphasis on protecting children & vulnerable adults.
- 16.3 In order to address these issues, Parts A, B & C had been extensively revised. Part A now contained licensing objectives, Code of Conduct when working with vulnerable passengers, safeguarding children and vulnerable people, human trafficking and child sexual exploitation. The council was empowered in law to check for the existence and content of any criminal record held in respect of an applicant for a hackney carriage or private hire, vehicle, driver or operator licence so when submitting an application for such a licence an applicant was required to declare all convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Anti Social Behaviour Orders, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related), they have recorded against them, and any pending proceedings. The guidance relating to the relevance of the above types of offences when considering an application or reviewing an existing licence had also been extensively amended and brought up to date with new types of offences. Section 2.(D) 130 -145. It was intended that the revised hand book would be reproduced as a booklet and made available for all hackney carriage and private hire, drivers, proprietors and operators. It was best practice to review any policies adopted by the council every three years and the handbook would therefore next be due for review in 2018.
- 16.4 Councillor Moonan stated that she was happy to support the proposed amendments and hoped that thought could be given to how best to disseminate this updated document and encourage any training necessary via the trade’s representative own bodies, e.g., the Taxi Forum.

- 16.5 Councillor Wares considered that it was important to ensure that the Blue Book was updated as quickly as possible to seek to ensure that there were no loopholes for new operators such as Uber and that all were required to meet a common high standard.
- 16.6 Councillor Cobb agreed but queried whether it would be preferable to delay publication of the document in order to enable wider consultation with the public via the council's consultation portal.
- 16.7 The Chair, Councillor Marsh, whilst acknowledging Councillor Cobb's comments considered that it was important to ensure that the "Blue Book" was updated as soon as possible in order to ensure that it reflected the current focus on child protection issues and also sought to keep pace with modern technology. The Panel which had recently considered the Uber application had been mindful; that changes to this document were imminent and of the need to ensure that all operators met agreed and consistent high standards. The current document had been revised following in depth consultation with the trade and other stakeholders.
- 16.8 Councillor Simson who had sat at the recent Panel hearing referred to concurred in that view.
- 16.9 Councillor Deane commended the work which had been undertaken in preparing this updated document and stated that she supported the approach being adopted.
- 16.10 **RESOLVED** – That the Committee approve the handbook 4th Edition of the handbook set out in Appendix A to the report.

17 HACKNEY CARRIAGE UNMET DEMAND SURVEY

- 17.1 The Committee considered a report of the Director of Public Health which set out the results of the Hackney Carriage Unmet Demand Survey. Various options were set out for the Committees' consideration and the summary and conclusions section of the survey was set out as an appendix to the report.
- 17.2 The Hackney Carriage Officer, Martin Seymour and Ian Millership of Peter Brett Associates, (the Council's Consultants) gave a presentation highlighting the key findings drawn from the survey.
- 17.3 The presentation outlined what the aims of the survey had been, and also detailed fleet and industry issues which had been identified, the level of activity on ranks across the city. Outcomes of the public questionnaire/consultation, stake holder consultation and consultation with the trade were also detailed, this included a critique of the issues identified in relation to disabled users. The key conclusions of the survey were as follows:

There was no evidence of significant unmet demand;
Both patent and latent demand were being addressed;
However, demand was growing;
Operational reviews was required of several of the night ranks;
A policy of managed growth remained valid and beneficial;

It was necessary to consider the mixed fleet against 100% WAV options when/before WAV% gets to 50; and

If the current limit was retained it should be the subject of further review in three years' time unless there were changes to the existing guidance/legislation.

- 17.4 Councillor West sought clarification regarding the methodology adopted and breadth of the survey and details of the depth and level of consultation which had taken place.
- 17.5 Councillor Moonan referred to the observations made in relation to the 1 night time economy and the need to review several of the ranks which were utilised late at night. The Head of Regulatory Services, Tim Nichols explained that this situation was being monitored in order to see whether it would be appropriate/practicable to provide any new ranks, confirming that a decision on that would fall within the remit of the Environment and Transport Committee which would need to authorise the making of any new traffic orders which would permit that.
- 17.6 Councillor Gilbey stated that she found some of the data surprising and sought information regarding data supplied in relation to Portslade and to arrangements in place at Brighton station. The information given indicated that 85% of those passengers used Hackney Carriages, she was sure that in Portslade the majority of vehicles used would be Private Hire.
- 17.7 Councillor Deane sought confirmation regarding the proportion of Wav's provided and it was confirmed that this was considered to be at an appropriate level at present, Wav's were not suitable for all disabled users.
- 17.8 In answer to questions by Councillor Wares it was confirmed that overall, the range of vehicles in use across the city was very wide.
- 17.9 Councillor West stated that he was concerned that insufficient time had been allowed for debate considering that comments which had wished to make had been curtailed. The Chair proposed a brief adjournment and comfort break and it was agreed that each of recommendations set out in the report would be put and voted on separately. He had concerns regarding whether retention of the existing figure or managed growth was proposed and the rationale for this as he did not consider that all of the data provided had been quantified sufficiently.
- 17.10 Following the adjournment it was agreed that the Committee would vote directly on the recommendations in the officer report. Recommendation 2.2 was agreed on a vote of 11 to 4; Recommendation 2.2 and 2.3 then fell and Recommendation 2.4 was agreed unanimously. The resolutions set out below reflect this:
- 17.11 **RESOLVED** – (1) That the Committee agrees to issue 5 additional hackney carriage vehicle licences annually; and
- (2) That any additional licences issued under should be issued in accordance with the conditions attached to the Brighton & Hove City Council Hackney Carriage Vehicle Licence Waiting List and to vehicles which are constructed or adapted and configured to carry passengers seated in wheelchairs, the type and design of the vehicle to be agreed by the Director of Public Health.

18 ITEMS TO GO FORWARD TO COUNCIL

18.1 There were none.

The meeting concluded at 5.00pm

Signed

Chairman

Dated this

day of