

LICENSING COMMITTEE (NON-LICENSING ACT FUNCTIONS)	Agenda Item 15 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 27 JUNE 2013

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Powell (Chair), Deane (Deputy Chair), Simson (Opposition Spokesperson), Lepper (Opposition Spokesperson), Bennett, Gilbey, Hyde, Jones, Kennedy, Marsh, Phillips, Pidgeon, Robins, Rufus, Sykes and C Theobald

PART ONE

1. PROCEDURAL BUSINESS

1a Declaration of Substitutes

1.1 Councillor Sykes declared that he was present in substitution for Councillor Duncan. Councillor Phillips declared that she was present in substitution for Councillor Kennedy.

1b Declarations of Interest

1.2 There were none.

1c Exclusion of the Press and Public

1.3 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).

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

2. MINUTES OF THE PREVIOUS MEETING

- 2.1 **RESOLVED** – That the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on 14 March 2013 be agreed and signed as a correct record.

3. CHAIR'S COMMUNICATIONS

Suspensions and Revocations

- 3.1 The Chair explained that since the last meeting of the Committee, officers of the Hackney Carriage Office had:

Suspended one driver on medical grounds;

One private hire driver had received a simple caution for carrying passengers without a prior booking;

Refused one application for a licence due to a conviction indecent assault on a female;

Refused one application on medical grounds; and

In addition 8 drivers had received formal warnings.

Disclosure and Barring Service

- 3.2 The Chair went on also explained that from 17 June the arrangements for DBS (formally CRB) checks were set to change, the Council would no longer receive a copy of driver checks.

To enable officers to consider if a driver was a fit and proper to hold a licence from 1 October drivers would be required to produce a valid DBS certificate before a licence could be issued.

Where a DBS check was required prior to 1 October officers could at their discretion issue an 8 week licence pending the issue of the DBS certificate.

- 3.3 **RESOLVED** – That the position be noted.

4. PUBLIC INVOLVEMENT

4a Petitions

- 4.1 There were none.

4b Written Questions

- 4.2 There were none.

4c Deputations

- 4.3 There were none.

5. MEMBER INVOLVEMENT**5a Petitions**

5.1 There were none.

5b Written Questions

5.2 There were none.

5c Letters

5.3 There were none.

5d Notices of Motion

5.4 There were none.

6. PASTON PLACE TAXI RANK

6.1 The Committee considered a report of the Head of Planning and Public Protection reporting on taxi driver behaviour at Paston Place following monitoring in response to the Committees' resolution in response to the Deputation which had been presented to the Committee at its meeting in March.

6.2 The Head of Regulatory explained that following the Deputation to the last meeting of the Committee a warning notice had been sent to all Hackney Carriage Drivers and proprietors and specific warnings to some drivers where it had been established that they had been over ranking or not returning to the nearest rank. 38 complaints had been logged from a complainant alleging contravention of the byelaws and poor behaviour by drivers. In response to the complaints received and in order to investigate the matter further following an initial visit on 30 January 2013 a further 19 visits had been made between 6 March and 9 May. These visits had taken place at varying times and on various days of the week between 09.00 and 23.00. This had included a visit by the Head Regulatory services and directors of Streamline on 15 April 2013. The Head of Regulatory Services was interrupted several times from the public gallery whilst making his presentation and the Chair had to request that this cease in order to enable him to continue.

6.3 Since the deputation to committee, a warning notice had been sent to all Hackney Carriage Drivers and proprietors, and specific warnings to some drivers where it has been established that they were over ranking or not returning to the nearest rank. Officers had logged 38 complaints from a complainant alleging contravention of the byelaws and poor behaviour of drivers. Since the initial complaint this year, officers received one other complaint from a resident of Paston Place in relation to this matter. As part of the investigation, officers made an initial visit on 30 January 2013, and 19 further visits between 06 March and 09 May. These visits occurred on various days of the week and at varying times between 09:00 and 23:00, including a visit made by the Head of Regulatory Services and the directors of Streamline on 15 April 2013.

- 6.4 Following further investigation it had been considered that there was no justification for removal of the main taxi rank which had been in existence for more than 10 years on air quality or other grounds, however, the feasibility of removing and relocating the 7th and 8th feeder spaces outside nos 9 and 10 Paston Place. It should be noted however that this matter fell outside the responsibilities of the Licensing Committees', this matter fell within the responsibility of the Environment, Transport and Sustainability Committee. It was also understood that the Council's air quality action plan which included this area was in the process of being developed and would also form the subject of a report to the Environment, Transport and Sustainability Committee. The air quality action plan might inform taxi licensing policy in due course.
- 6.5 Councillor Simson stated that she had occasion to visit the hospital on several occasions recently and whilst she had not witnessed any of the offences referred to she did not doubt that they did occur, considering therefore that it was important to continue to monitor the situation and to take enforcement action as appropriate. Councillor Simson was interrupted several times whilst attempting to speak and the Chair intervened telling those in the public gallery to conduct themselves in a proper and respectful manner. She reminded them that they could have taken the opportunity to engage in the process by asking questions or by the other means of public involvement in the meeting that were available to them, but had chosen not to do so.
- 6.6 Councillor Jones stated that he worked in the area and knew the location of the rank well. He had sympathy with the concerns of residents and was aware that problems arose from time to time. He considered that thought should be given to removal of the two feeder spaces which were located immediately in front of residential properties as this could alleviate some of the problems experienced.
- 6.7 Councillor Councillor Simson concurred with Councillor Jones stating as these two spaces in particular had been cited as giving rise to problems that their removal would address residents concerns, at least in part. It was noted that this matter did not however, fall within the responsibilities Licensing Committee.
- 6.8 Councillor Deane stated notwithstanding that those sitting the public gallery were doing themselves a disservice by behaving as they were Members had read the report carefully and had noted their concerns, these had not been ignored but proportionate action needed to be taken. Both of the relevant Committees had looked at and were assessing potential action that could be taken, issues relating to air quality and potential reconfiguration (removal of two feeder spaces) were being examined by the appropriate Committee.
- 6.9 Councillor C Theobald stated that she considered that enforcement action should be taken in any instances where that was appropriate.
- 6.10 At this point, having requested on several occasions that those in the public gallery, cease their interruptions and aggressive outbursts in relation to this item, several members had been shouted down whilst speaking as had the Head of Regulatory Services, there had also been exchanges with the Chair, there had been a brief delay to the Committees business whilst the gallery was cleared, the Committee then continued their consideration of the item.

- 6.11 Councillor Simson commended the work that had been carried out by officers to date suggesting that it would however be appropriate for monitoring to continue and for officers to take enforcement action as/if appropriate and to update the Committee as necessary
- 6.12 **RESOLVED** – That the Committee notes the content of the report. Officers are requested to continue to monitor the situation in respect of the Paston Place taxi rank, taking enforcement action and reporting further to Committee as appropriate.
7. **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER FEES ADDITIONAL MEDICAL ADVICE**
- 7.1 The Committee considered a report of the Head of Planning and Public Protection setting out the proposed increase in licence fees for Hackney Carriage and Private Hire Drivers that had become necessary to fund additional time spent by the Council's Medical Advisor to consider medicals and medical exemption requests.
- 7.2 The Hackney Carriage Officer, Mr Seymour explained that it was recommended by the Department of Transport that medical checks were made on all drivers at initial application and renewal. In common with other licensing authorities, the Council applied Group 2 medical standards, as applied by the DVLA to bus and lorry drivers, this was considered to be a necessary check to protect public safety.
- 7.3 The Head of Regulatory Services, Mr Nichols further explained that the general principle was that the Council was entitled to recover the full costs of administering the grant and renewal of licences through the licensing fees it received and that it should not knowingly set fees above those costs. It was anticipated that the proposed increases would cover costs for 2013-14 and that if the fees payable were by that level that there would be a budget deficit.
- 7.4 **RESOLVED** - That the Committee approves the following variation to licence fees: Hackney Carriage Driver fee from £51 to £57; and Private Hire Driver fee from £49 to £55 with effect from 1 July 2013.
8. **HACKNEY CARRIAGE ACCESSIBILITY POLICY (JUNE 2013)**
- 8.1 Before proceeding to consideration of this item a presentation was given by Colin Glinsman and John Streeter of Brighton and Hove Streamline accompanied by Rob Macchi of Croydon Accessible Transport. They explained that since they had become aware of the requirements in relation to the provision of wheelchair accessible vehicles (WAV's), they had sought to roll out appropriate training for all of their drivers in recognition of how important it was to provide a sensitive and comprehensive service to customers with varying needs and disabilities. As a condition of employment all of their drivers were required to undergo training which comprised a number of modules both classroom based and practical. Mr Macchi explained that had been approached by the Company and had given advice and assistance in setting up the accredited course based on his wide ranging experience with the Croydon Accessible Transport Scheme.
- 8.2 Members had the opportunity to ask questions prior to consideration of the report providing an update on the Accessibility Policy for Hackney Carriage and Private Hire

Drivers. Councillor Hyde sought confirmation of the numbers of drivers involved and explained that this was mandatory for all Streamline drivers who were going to be driving WAV's. The Head of Regulatory Services, Mr Nichols drew Members attention to a correction which needed to be made to the circulated report, the policy only applied to hackney carriages, not to private hire vehicles.

- 8.3 Councillor Lepper referred to arrangements being made to ensure that independent and other "harder to reach" drivers received training, The Head of Regulatory Services explained that Streamline had indicated a willingness to share their training although other drivers/companies were not compelled to take that up and indications were that other companies had put their drivers through relevant BTEC modules. In the medium to longer term it was hoped that all drivers could be encouraged to attend an appropriate B Tech course.
- 8.4 Councillor Marsh stated that in her view it would be appropriate for different types of vehicle to be available to those with different disabilities as WAV's were not suitable for all. It was recognised however that would need to be a far longer term objective.
- 8.5 The Committee then went on to consider a report of the Head of Planning and Public Protection reporting and updating on the Accessibility Policy for Hackney Carriage and Private Hire Drivers, Vehicles and operators and the associated equalities impact review.
- 8.6 In answer to further questions in relation to driver training, the Head of Regulatory Services, Mr Nichols explained that means of delivering on-going training were being looked at, drivers seemed to be receptive to that.
- 8.7 Councillor Mrs Theobald stated that the information provided was positive, she understood however that it sometimes difficult closing the doors of bigger vehicles and that drivers could be embarrassed about doing the "wrong" thing. Mr Glinsman explained that it was important for drivers to feel confident in asking their customers whether and what assistance they needed. It was important to note that the training they delivered had a properly certificated exam attached to it which could be passed or failed, it was not just a certificate of attendance.
- 8.8 Councillor Pidgeon stated that his wife was blind and had been for a number of years. WAV's were not ideal for her, she had significant difficulties in getting into and out of such vehicles. Mr Streeter responded that all drivers were now receiving or had received training, it was important that if customers had specific requirements these were notified at the time they made their booking.
- 8.9 The Head of Regulatory Services explained in answer to questions that new Hackney Carriage proprietors had the discretion to choose either side or rear loading wheelchair accessible vehicles and that the Committee had already made the decision to approve side loading WAVs as licensable vehicles at a special meeting of the Committee held on 10 September 2010.
- 8.10 Councillor Gilbey stated that it was important to note that WAV's were not suitable for use by all disabled people and that a range of training and provision needed to be available to cater to all customer needs.

8.11 **RESOLVED** - (1) That the Committee endorses the proposed Accessibility Policy for Hackney Carriages and Vehicles set out in appendix D to the report.

9. HACKNEY CARRIAGE FARE TARIFF

9.1 The Committee considered a report of the Head of Planning and Public Protection seeking agreement and authorisation to advertise the proposed fare increases following the hackney carriage trade's request for an increase in fares.

9.2 Councillor Lepper asked what the rise would mean in terms of the increase payable for example on a fare of £10.00. It was explained that a £10.00 fare would now rise from £10.00 to £10.20.

9.3 Councillor Deane stated that she had attended meetings with the trade and that given the current pressures on the trade in consequence of the recession they have given careful thought to the level of increases proposed.

9.4 Councillor Robins asked for confirmation regarding the way in which the number of additional seconds was applied as this seemed somewhat arbitrary. It was explained that this was due to the way in which the metres inside vehicles were calibrated. These on board machines would be re-calibrated to take account of the fare increases if agreed.

9.5 Councillor C Theobald asked if it was possible to pay a fixed fee when hiring a vehicle. It was explained that this was possible for short journeys and that customers could negotiate this with individual drivers.

9.6 Councillor Gilbey stated that Boundary Road, Portslade was covered by taxis from Brighton & Hove and Adur Fares charged were cheaper with Brighton & Hove and had been for some a number of years. time.

9.7 **RESOLVED** – (1) That the Committee authorises the proposed fare increases and authorises the Head of Regulatory Services to advertise the proposed variation in fares and invite any objections in accordance with the legal requirements;

(2) Agree that of no objections are made, or if any objections which are made are withdrawn, the varied table of fares will come into force in accordance with the statutory scheme; and

(3) Will reconsider the matter at the next meeting of this Committee if valid objections are made but not withdrawn. As there are strict legal timescales relating to fare reviews a special meeting of the Committee may be required.

10. AMENDMENT TO STREET TRADING POLICY

10.1 The Committee considered a report of the Head of Planning and Public Protection seeking amendment to the council's existing street trading policy.

- 10.2 The Head of Regulatory Services, Mr Nichols explained that the Brighton & Hove City Council street trading policy had been introduced on 2 April 1998 and that subsequently on 26 November 2009, a revised street trading policy had been adopted. St the meeting of the Licensing Committee held on 23 June 2011 that policy had been confirmed by Committee as being current with the addition of guidelines for relevant convictions and further issue zone b trading consents. Officers had recently received a request from a farmers market operating in central Brighton which would require a change to the current policy.
- 10.3 Councillor Lepper enquired regarding the level of fees payable stating that these should be set at a level that was such that they should cover the level of costs that arose for the service. Mr Nichols explained that there were three options available to organisers/traders and that they were able to opt for the one that was most economical for them.
- 10.4 Councillor C Theobald requested clarification regarding the location of the market as she thought that this was in a potentially dangerous spot. Mr Nichols explained that the market took place in the redundant bus lane which ran parallel to the Royal Pavilion and which was now closed to traffic.
- 10.5 Councillor Deane stated that she was in agreement that the Farmers Market should pay a level of fees relative to the service they received, the Council should seek to cover its costs. In the case of the market located in George Street, Hove she was of the view that this had the potential to develop further as it had also attracted street. artists and had a positive ambience
- 10.6 Councillor Robins stated that a similar Market had operated on the Western Lawns at Hove in the past.
- 10.7 **RESOLVED** – (1) That subject to designation as a Consent Street, the Committee agrees that street trading in Memorial Way will be restricted for use as a farmers market;
- (2) That Members confirm that consent fees will be payable for this farmers market, subject to designation; and
- (3) That the Committee endorses the minor amendment to the policy which has arisen since June 2011, that is the granting of consents for street artists in George Street, Hove.

11. DESIGNATION OF A NEW CONSENT STREET

- 11.1 The Committee considered a report of the Head of Planning and Public Protection seeking amendment to the council's existing street trading policy.
- 11.2 The Head of Regulatory Services, Mr Nichols explained that the Brighton & Hove City Council street trading policy had been introduced on 2 April 1998 and that subsequently on 26 November 2009, a revised street trading policy had been adopted. St the meeting of the Licensing Committee held on 23 June 2011 that policy had been confirmed by Committee as being current with the addition of guidelines for relevant convictions and further issue zone b trading consents. Officers had recently received a request from a

farmers market operating in central Brighton, from a Ward Councillor and market organisers that could not be accommodated within and would require a change to the current policy.

11.3 **RESOLVED** – (1) That the Committee authorises the Head of Planning and Public Protection to publish notice of the council's intention to resolve to designate Memorial Way in the Old Steine as a consent street (as set out in the map attached at Appendix D to the report and outlined in red); such notice to be published in the local newspaper and served to the Chief Officer of Police and Highway Authority to request necessary consent; and

(2) That the Head of Planning and Public Protection report any representations arising to the next meeting of the Committee.

12. **LAW COMMISSION INTERIM STATEMENT ON REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES**

12.1 The Committee considered a report of the Head of Planning and public Protection on reforming taxis and private hire legislation.

12.2 The Head of Regulatory Services, Mr Nichols explained that on 10 May 2012, the Law Commission had launched consultation on reforming the law on taxi and private hire services. Subsequently, on 9 April 2013 the commission had published an interim Statement on its consultation, the statement was attached as Appendix1 to the report.

12.3 The key points locally were:

- Limitation (hackney quantitative controls) policies would remain within the discretion of licensing authorities which would permit current Council policy of restricted numbers and managed growth. New limited districts would not allow plate transfer to preclude plates selling at premium (commercial value of hackney carriage licence).
- Local authority discretion to set local standards for hackney carriages (but not for private hire). Would allow local policies like livery and CCTV. CCTV licence conditions for private hire vehicles could be an issue.
- Compellability to tackle the problem of taxi drivers failing to stop for disabled passengers.
- Mandatory disability awareness training, which would inform our accessibility policy.
- Secretary of State (DfT) would retain powers to set standards to promote accessibility to balance local and national control. Defining an accessible vehicle and proportions of accessible vehicles in fleet still an issue.

12.4 The Government had previously responded to the consultation by the Law Commission in the following terms:

- Reforming Quantity Controls: The Government had agreed that licensing authorities should no longer have the power to restrict taxi numbers recommending special transitional measures in place, like staggered or phased removal of the power to control taxi numbers.

- Accessibility: The Government on people with disabilities recognised the importance of taxis and PHVs, considers issues difficult, stresses non-regulatory measures preferable, and
- Accessibility: The Government was concerned about the burden that a statutory obligation for disability awareness training would place on the trade and is not convinced that the benefits would justify the costs.

12.5 The views of Central Government and the Law Commission were at variance currently and how that would be taken on board in the proposed reforms remained unclear at the present time.

12.6 Councillor Lepper enquired whether there was anything further that that Members/the Licensing Authority could do about this at the present time. Mr Nichols explained that detailed responses had already been sent in respect of the consultation.

12.7 **RESOLVED** – That the Committee notes the content of the Interim Statement.

13. ITEMS TO GO FORWARD TO COUNCIL

12.1 There were none.

The meeting concluded at 4.55pm

Signed

Chairman

Dated this

day of