

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 23 NOVEMBER 2017

HOVE TOWN HALL, COUNCIL CHAMBER - HOVE TOWN HALL

MINUTES

Present: Councillors O'Quinn (Chair), Morris (Deputy Chair), Hyde (Opposition Spokesperson), Deane (Group Spokesperson), Bell, Cattell, Cobb, Gilbey, Hill, Horan, Lewry, Page, Phillips, Simson and Wares

PART ONE

9 PROCEDURAL BUSINESS

9a Declarations of Substitutes

9.1 There were none.

9b Declarations of Interest

9.2 There were no declarations of interest in respect of any matter set out on the agenda.

9c Exclusion of Press and Public

9.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

9.4 **RESOLVED:** That the press and public not be excluded from the meeting during consideration of any items contained in the agenda.

10 MINUTES OF THE PREVIOUS MEETING

10.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 29 June be agreed and signed as a correct record.

11 CHAIR'S COMMUNICATIONS

Uber Update

11.1 The Chair, Councillor O'Quinn, confirmed that a decision had been made in respect of Uber by officers in consultation with herself and the two lead members, Councillor Hyde and Councillor Deane. The decision had been made to renew the licence for 6 months

as they had considered it was necessary to see what transpired between TfL and Uber regarding Uber's appeal. A decision would be taken in the New Year on how to approach the licence renewal for Uber and it seemed likely that this would be decided by a panel, which meant it would be a public hearing. In the meantime it had been pleasing to see the large number of joint taxi enforcements that have been carried out between TfL and the Brighton and Hove Licensing team.

- 11.2 A training session had taken place with the highly regarded Jim Button at the end of October, this had been an especially helpful session which had been highly informative and had given all who had attended a greater insight into the current issues regarding taxi legislation.
- 11.3 The consultation carried out in relation to street trading with both the general public and street traders had received a good response and was to be considered elsewhere on the agenda for that days meeting. She had received 3 complaints in the last week about a food vending street trader parking on double yellow line in Goldstone Villas so she hoped that this matter, and others like it, would be resolved when that item was considered.
- 11.4 The Chair went on to say that she hoped members had noted the further information which had been provided on driver enforcement and monitoring matters. It had now been established that the most difficult matters would come to her as Chair and to the two lead members for discussion. If a matter was really serious and required immediate suspension then officers would come to members as soon as possible after they had taken action. She felt that this would allow members to have more insight into how enforcement, revocations etc. were dealt with.
- 11.5 An emergency taxi forum was to be held on the 20 December to discuss the emissions policy, as was of considerable significance for taxi drivers.
- 11.6 **RESOLVED** – That the content of the Chair's Communications be received and noted.

12 CALLOVER

- 12.1 All items on the agenda were reserved for discussion with the exception of Items 18, "Hackney Carriage Unmet Demand Survey and Consultation on Wheelchair Accessible Vehicle Provision" and 19, "Hackney Carriage and Private Hire Driver Enforcement and Monitoring" which were agreed without discussion.

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 Deputations

14.4 There were none.

15 STREET TRADING POLICY REVIEW

15.1 The Committee considered a report of the Executive Director of Neighbourhoods, Communities and Housing detailing the Street Trading Policy Review which had been undertaken.

15.2 It was noted that The Council's Street Trading Policy had been set by Members of Licensing Committee after extensive consultation in November 2009 and had last been considered at Licensing Committee at its meeting on 21 November 2013. At its meeting in June 2017, the Committee had considered a report requesting that consideration be given to re-designating some of the streets in Zones A & B and to prohibiting trading on yellow lines and where there were parking restrictions. The committee had noted the contents of report at that time and had recommended that officers should consult on amending conditions to prevent trading taking place on yellow lines and/or to otherwise contravene TROs (Traffic Regulation Orders) including parking restrictions. Legislation allowed for the Council to vary the conditions of a street trading consent as they consider reasonably necessary. Conditions might specify trading restrictions on yellow lines or parking restrictions.

15.3 Councillor Wares referred to the minutes where reference had been made to setting up a Member Working Group querying what the status of this now was. The Public Health, Licensing Lead, Jim Whitelegg confirmed that in the light of the consultation process, no changes were currently proposed. This would be monitored however and a Working Group would be set up if changes were proposed. The Chair stated that she considered that the decision taken had been to review the conditions rather than to revisit the zones at the present time.

15.4 Councillor Wares stated that he considered it would be appropriate to continue with the existing arrangements but to monitor the situation and to make consider making further

amendments to them in the light of the outcome of the monitoring being undertaken. He remained of the view that there should be the ability to set up a Cross Party Working Group should that be deemed appropriate.

- 15.5 Councillor Deane sought clarification regarding whether pizza vans and similar vehicles which were parked in order to trade fell within the sui generis class and it was confirmed that they did.
- 15.6 Councillor Morris sought clarification regarding the position if a trader parked on a pay and display bay with no plate on display. It was confirmed that constituted a highways offence and that the trader could be removed.
- 15.7 Councillor Simson enquired regarding renewal of licences and it was confirmed that they were renewable annually. The general consensus of the Committee was that pro-tem it would be appropriate to retain the existing arrangements in respect of Zone B, but to allow dispensations to be given in instances where this was considered appropriate.
- 15.8 A vote was taken and the Committee voted unanimously to the recommendations as set out.
- 15.9 **RESOLVED** - That the Committee approves the suggested varied conditions as listed below, in light of the consultation responses contained in Appendix B to the report. In relation to Zone B Members are in agreement that the existing time limits remain and that special dispensations may be given in instances where that is considered appropriate.

F The Trader shall operate in a manner which causes no nuisance, obstruction or danger to the Council or to the general public;

L The Trader shall be prohibited from trading on double yellow lines;

M The Trader shall be prohibited from trading in residential and shared pay display parking bays.

N The Trader shall be permitted to trade from pay and display parking bays providing they abide by any specified maximum waiting times and display a valid ticket for that bay.

In addition the suggested Time Limits for Zone B be removed or remain as a standard (8am-6pm) but we may accept special dispensation to depart from these times upon application in individual cases.

The above conditions to take effect immediately for new applications and upon renewal for existing traders.

16 LICENCE FEES 2018/2019

- 16.1 The Committee considered a report of the Executive Director of Neighbourhoods, Communities and Housing setting out for approval proposed licence fees and charges

for 2018/19 relating to Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, taxi licensing and other licensing functions.

- 16.2 It was explained that in order to ensure that council tax payers were not subsidising work concerning licensing administration, income was raised by licence fees with the aim of covering the cost of administration of each regime within the constraints of regulation. Licence fees should not be used to raise surplus revenues. Officers had undertaken a further review of the way charges were calculated so that they were now based on the most recent detailed analysis of officer time in processing the different respective licences. The regulations applicable when setting fees was detailed as were the changes required to reflect changes in legislation and the outcome of relevant test cases.
- 16.3 Councillor Cobb sought clarification of how the figures set out had been arrived at given that some of the percentage increases arrived at seemed high, notwithstanding that she understood that the authority needed to ensure that council tax payers were not subsidising licensing administration.
- 16.4 Councillor Wares stated that whilst understanding the rationale for the proposed fees and generally supportive of it, he considered that the requirement for 1 year licence fees to increase by 20%, could be onerous, Councillor Simson concurred in that view. In answer to questions it was confirmed that this represented a very small number of drivers and on that basis, the view of Members was that the recommendations should be amended to reflect this.
- 16.5 In answer to questions, the Legal Adviser to the Committee, Rebecca Sidell, confirmed that the report did not need to be referred directly to Council; however, the Committees' decisions in respect of fees payable would be fed through to Full Council as part of the budget setting process.
- 16.6 In order to reflect the discussions which had taken place the Chair asked whether Members wished the first line of the officer recommendations to be amended and the first line deleted so that it now read:
- “Hackney Carriage Vehicle Licence fee to increase by approximately 7%, all other fees to remain unchanged”. Members confirmed that was their wish and voted unanimously in agreement with the revised recommendations as set out below.
- 16.7 **RESOLVED** – That the Committee approves the following licence fees:
- (i) Hackney Carriage Vehicle Licence fee to increase by approximately 7%, All other fees to remain unchanged;
 - (ii) Sex entertainment venues and sex establishments fees – fees remain unchanged;
 - (iii) Street trading fees– remain unchanged; and
 - (iv) All Gambling Act 2005 fees – remain unchanged.

A list of agreed fees for 2017-18 and proposed fees for 2018-19 are included in Appendices 1-and 2 to the report.

17 PRIVATE HIRE PLATE EXEMPTION POLICY

- 17.1 Before proceeding to the formal consideration of the report at her discretion the Chair permitted Mr Andy Peters to speak on behalf of the GMB with reference to the proposed Private Plate Exemption Policy. With regards to the intention that a “generic” door sign be used, the trade at its last meeting with officers had specifically asked that the design include a telephone number, it did not appear that this would be the case and he requested clarification of any apparent discrepancy as it had been understood by the trade that this would be the case.
- 17.2 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing requesting that consideration be given to adoption of a formal policy with regard to determining applications for exemption from the requirement to display private hire vehicle licence plates also, approval of new door signs as allowed by section 75 of the Local Government (Miscellaneous Provisions) Act 1976.
- 17.3 It was explained that The Local Government (Miscellaneous Provisions) Act 1976 required Private Hire Vehicles to display an identification plate and for drivers of those vehicles wear a driver’s badge. The same legislation also allowed Brighton & Hove City Council to exempt vehicles from the need to display an identification plate and, where that exemption applied, there was a requirement to wear a Private Hire Driver badge. The council had seen an increase in the number of applications for Private Hire Vehicles (PHV) to be exempt from the requirement to display PHV Licence identity plates. Therefore a policy was needed to ensure a consistent approach was taken to ensure that the decision making process was a transparent and to ensure that public safety was not compromised.
- 17.4 In response to the issues raised by the trade, The Public Health Licensing Lead, Jim Whitelegg explained that in order to fulfil the stated policy objectives regarding public safety/vehicle identification but also to address and remove the opportunity for unintended consequences it was proposed that:
- Council livery was mandatory (Council Logo, Pre-Booked statement) when undertaking bookings);
No individual operator identifiers permitted on any livery (name, phone number etc);
All cars will look the same, with clear markings for the public;
Magnetic signage to be permitted that can be removed when not working and a condition to be imposed on drivers to fix magnets when working.
- 17.5 **RESOLVED** – (1) That the Committee adopt the Private Hire Plate Exemption Policy as set out in appendix 1 to the report with effect from 1 January 2018; and
- (2) That the Committee approve the generic Private Hire door sign set out in Appendix 2 to the report.

18 HACKNEY CARRIAGE UNMET DEMAND REPORT

- 18.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing requesting that Members give consideration to authorising officers to undertake a Hackney Carriage “ Unmet Demand Survey” during 2018 in order to establish whether there was any unmet demand for Hackney Carriages.
- 18.2 It was noted that the survey would look at current policies and hackney carriage provision in the context of other similar authorities in England with particular emphasis on the level of wheelchair accessible provision and the percentage of wheelchair accessible vehicles in the fleet.
- 18.3 **RESOLVED** – (1) That the Committee approves the commission an unmet demand survey to be undertaken during 2018. Any survey and report to compare current policies and provision with similar authorities in England and to provide evidence in relation to the perceived or actual problem of availability of wheelchair accessible vehicles and the percentage of wheelchair accessible vehicles in the hackney carriage fleet including consultation with local stakeholders;
- (2) That the Committee confirm their support for the current restricted numbers policy for hackney carriage vehicles with managed growth of five additional plates issued annually to wheelchair accessible vehicles; and
- (3) That the Committee note that this policy will be reviewed following the outcome of the unmet demand survey.

19 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING

- 19.1 The Committee considered a report of the Executive Director of Neighbourhoods, Communities and Housing the purpose of which was to provide Members with an update on enforcement action taken against Hackney Carriage and Private Hire Drivers between 19 June 2017 and 9 October 2017.
- 19.2 **RESOLVED** – That the contents of the report be received and noted.

20 ITEMS REFERRED FOR COUNCIL

- 20.1 No items were referred to Council.

The meeting concluded at 4.35pm

Signed

Chairman

Dated this

day of