

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 26 JUNE 2014

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Powell (Chair), Duncan (Deputy Chair), Simson (Opposition Spokesperson), Carden, Deane, Bennett, Gilbey, Jarrett, Phillips, Robins, Rufus, C Theobald, Wealls and Wells

Apologies: Councillor Marsh

PART ONE

1 PROCEDURAL BUSINESS

1a Declaration of Substitutes

1.1 Councillor Deane declared that she was substituting for Councillor Jones. Councillor Jarrett declared that he was substituting for Councillor Kennedy. Councillor Wealls declared that he was substituting for Councillor Hyde. Councillor Wells declared that he was substituting for Councillor Cobb. Councillor Carden declared that he was substituting for Councillor Lepper.

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 appearing on the agenda.

2 MINUTES OF THE PREVIOUS MEETING

- 2.1 Councillor Gilbey referred to paragraph 29.14 of the minutes stating that she had been advised that Westbourne Motors had relocated and no longer carried out MOT's and that her query had related to the Rapid Auto Centre who had hoped to take on this work.
- 2.2 **RESOLVED** – That the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on 26 March 2014 as amended above be agreed and signed as a correct record.

3 CHAIR'S COMMUNICATIONS

- 3.1 The Chair confirmed that since the last meeting of the Committee suspensions, revocations and formal warnings had been issued as set out below:

1 driver had had their licence revoked for receiving a drug related caution;

1 driver had been suspended on medical grounds; and

4 drivers had received a formal warning.

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

4 PUBLIC INVOLVEMENT

4a Petitions

- 4.1 There were none.

4b Written Question

- 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 NEW MODEL PET SHOP LICENSING CONDITIONS

- 6.1 The Committee considered a report of the Director of Public Health detailing the new model licensing conditions for Pet Vending drawn up by the Chartered Institute of Environmental Health (CIEH), set out in Appendix 1 to the report. Pet Shops in the city were regulated under the Pet Animals Act 1951 and it was recommended that these new model be adopted as set in the recommendations set out in paragraphs 2.1 and 2.2 of the report. The new model licence conditions had been developed nationally and it was expected by the CIEH that these conditions would be adopted by local authorities.
- 6.2 It was explained that the British Veterinary Association, Cats Protection League, Department for Environment, Food and Rural Affairs (Defra), Dogs Trust, Federation of Companion Animal Societies, Feline Advisory Bureau, Local Government Association, Ornamental Aquatic Trade Association, Pet Industry Federation, Rabbit Welfare Association & Fund, Reptile and Exotic Pet Trade Association, Royal Society for the Prevention of Cruelty to Animals had been consulted by the CIEH in preparing these model conditions. It was considered that failure to adopt the new national model licence conditions would run the risk that animal welfare might be compromised by inconsistent pet shop licensing as councils adopted different licensing guidelines.
- 6.3 The Council had consulted the 12 pet shops located in the City, a wide range of views had been expressed, set out in Appendix 3 to the report. The Pet Industry Federation, had also written in to the Council with their views.
- 6.4 The Animal Protection Agency, which was based in Brighton had approached the Council to request that the EMODE leaflet was given to pet purchasers by Pet Shops as a condition of the licensing process, copies of the leaflet were set out at Appendix 2 to the report. The Animal Protection Agency had indicated that they would like the EMODE leaflet to be given to prospective purchasers as a condition of licence. The majority of pet shops in the city had responded to the Council's consultation indicating that they did not want to use the EMODE system. The Pet Industry Federation had expressed concerns about the origins and validity of the document. Pet shops were currently required to make available pet care information and all of those in Brighton and Hove did so.
- 6.5 The Legal advice in respect of this matter was set out in paragraph 7 of the report. In a nutshell it was that existing legislation required that pet care leaflets made available at the point of sale. However, to require favouring one particular leaflet was not necessary or enforceable, represented a duplication and was open to challenge.

6.6 It is proposed that the recommendations set out in Paragraphs 2.1 and 2.2 of the report on Page 11 of the circulated agenda papers be amended and replaced by the following:

Proposed by: Councillor Ben Duncan (Deputy Chair)

Seconded by: Councillor Stephanie Powell (Chair)

RECOMMENDATIONS:

- 2.1 That the Committee notes that progress has been made regarding the possible use of the CIEH published Model Licence Conditions for Pet Vending and that the issue warrants further discussion and consultation;
 - 2.2 That the Committee notes that progress has been made regarding the possible mandatory distribution of the EMODE leaflet to prospective pet shop customers and that the issue further warrants discussion and consultation;
 - 2.3 That officers are directed to consult further on the EMODE leaflet, to explore whether objections from all trade bodies can be satisfied; that a full review is conducted, and that this item is brought back to the scheduled November 2014 Licensing Committee (Non Licensing Act 2003 Functions) for full discussion' ; and
 - 2.4 That the committee note the work done in the use of CIEH model licence conditions for pet vending.
 - The committee request that further research is done into how these proposed changes will improve/not improve the lives of animals in the pet trade, and as such, that the item is brought back post-publication of the review, and work done by officers, for full discussion at the next scheduled meeting of the Committee in November 2014.
- 6.6 Councillor Duncan spoke in support of his proposed amendment stating that whilst recognising the work carried out by the CIEH he was aware that a number of organisations had not given their full support to the model conditions as framed. He was aware that a number of animal charities and sanctuaries located around the city were extremely concerned at the number of animals that were either abandoned or presented for re-homing, robust measures to prevent/reduce this would be welcomed as were any measures that would ensure appropriate care of more exotic animals. He had reason to believe that the current proposals would be subject to legal challenge and on that basis he contended that it would be more appropriate to delay implementation and to proceed in the manner proposed as the Council would then be able to adapt to any changes made in the interim.
- 6.7 The Chair, Councillor Powell concurred with the views expressed by the Deputy Chair and commended the proposed amendment. Whilst not in the public domain currently information she had been made aware of gave her every reason to believe that the model conditions proposed would be challenged and altered subsequently and for that reason she supported the amendments.
- 6.8 In answer to questions of Councillor Simson the Head of Regulatory Services and the Legal Adviser to the Committee stated that they remained of the views set out in the officer report. It

was explained that although the RSPCA and some other organisations had not expressed full support for the model conditions that was because they wanted other conditions included which legal advice indicated were not legally enforceable.

- 6.9 Councillor Simson asked whether those who bred and sold animals privately would be covered by these conditions and it was explained that they were not. Councillor Simson stated that in her view these businesses were more likely to give rise to animals being taken on whose owners were unaware of the responsibilities they were taking on rather than animals purchased from pet shops. Councillor Carden concurred in that view. Councillor Simson also sought clarification that the proposals were more robust than the existing legislation. It was confirmed that they were and that if the recommendations as set out in the officers report were agreed that they would be capable of amendment in the light of any subsequent changes in legislation.
- 6.10 Councillor Robins sought confirmation of the sliding scale in relation to the degree of difficulty associated with ownership of different types of pets. He considered that the leaflet was quite difficult to understand.
- 6.11 Councillor Rufus sought of the date at which existing pet shop licences in the city were due for renewal and it was explained that would be 1 December. On that basis Councillor Rufus did not consider that an undue delay as a result of proceeding on the basis suggested by the amendment and bringing a further report to the next scheduled meeting of the Committee.
- 6.12 Councillor Gilbey stated that she was aware that a new pet shop was likely to open in her ward soon and it was explained that current conditions under which all pet shops operated would apply until such time as any changes were agreed.
- 6.12 A vote was then taken on the proposed amendment which had been proposed by Councillor Duncan the Deputy Chair and seconded by Councillor Powell, the Chair. Fourteen Members of the Committee were in attendance at the meeting when the vote was taken and the amendments were agreed on a vote of 8 to 6. The original recommendations set out in the report therefore fell and the amended recommendations became the substantive ones. A further vote was then taken and the recommendations were agreed on vote of 8 to 6.
- 6.13 **RESOLVED** – (1) That the Committee notes that progress has been made regarding the possible use of the CIEH published Model Licence Conditions for Pet Vending and that the issue warrants further discussion and consultation;
- (2) That the Committee notes that progress has been made regarding the possible mandatory distribution of the EMODE leaflet to prospective pet shop customers and that the issue further warrants discussion and consultation;
- (3) That officers are directed to consult further on the EMODE leaflet, to explore whether objections from all trade bodies can be satisfied; that a full review is conducted, and that this item is brought back to the scheduled November 2014 Licensing Committee (Non Licensing Act 2003 Functions) for full discussion' ; and
- (4) That the committee note the work done in the use of CIEH model licence conditions for pet vending.

The committee request that further research is done into how these proposed changes will improve/not improve the lives of animals in the pet trade, and as such, that the item is brought back post-publication of the review, and work done by officers, for full discussion at the next scheduled meeting of the Committee in November 2014.

Note: Councillor Marsh was not present at the meeting during the discussion or voting on this item.

7 LOWERING EMISSIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

- 7.1 The Committee considered a report of the Director of Public Health detailing proposals for lowering emissions (harmful to human health and Green House Gases) for Hackney Carriage and Private Hire Vehicles in the city.
- 7.2 In answer to questions by Councillor Wealls it was confirmed that the recommendations if agreed would not apply to buses but would apply to all licensed vehicles operating as taxis in the city.
- 7.3 Councillor Gilbey sought confirmation that these changes would be carried over into the “Blue Book” when it was next updated and it was confirmed that they would.
- 7.4 Councillor Duncan commended the report which he considered represented an excellent initiative.
- 7.5 A vote was taken and the 14 Members present voted unanimously to agree the recommendations set out in the report and below.
- 7.6 **RESOLVED** – (1) That the Committee its gives approval for cut engine/cut pollution signs to be placed on all taxi ranks; and

(2) That the Committee requires all Hackney Carriage and Private Hire Vehicles to have cut engine/cut pollution signs placed on the rear of the vehicle as part of its livery.

8 DEREGULATION BILL 2014 TAXI LICENSING AMENDMENTS - IMPLICATIONS

- 8.1 The Committee considered a report of the Director of Public Health setting out details of the amendments made to the Deregulation Bill 2014 that which had implications for the Hackney Carriage and Private Hire trades.
- 8.2 The Head of Regulatory Services explained that on 14 March 2014 the Department for Transport (DfT) had written to taxi and private hire stakeholders to inform them that amendments had been introduced to the Deregulation Bill as part of its drive to reduce the overall burden of regulation on business and individuals and cut ‘red tape’ during this Parliament. Ministers had identified for inclusion in the Bill three measures which were straightforward to make in isolation and which they considered would generate significant benefits for the taxi and private hire trades.

The three measures which have been added to the Deregulation Bill were:

- (i) Allowing private hire operators to sub-contract bookings to operators licensed in a different district. This change will improve operators' ability to meet passengers' needs. And it will help to make the passenger's experience so much more convenient.
- (ii) Allowing anyone with an ordinary driver's licence to drive a private hire vehicle when it is "off-duty". The principal benefit of this measure is that a PHV could be used as a family car, freeing up many families from the need to run a second car and saving them money; and
- (iii) Making the standard duration for all taxi and PHV driver licences three years; and five years for all PHV operator licences. Shorter durations will only be granted on a case by case basis, where it is justifiable for a particular reason. This will reduce the financial and administrative burden of having to make more frequent licence renewals.

8.3 The Dft had also asked the taxi and private hire trades outside London to give examples of conditions attached to their licences which they considered to be overly restrictive or unreasonable so that they could consider the case for Government involvement in the licence conditions set by local authorities. The Trade, Unions, NALEO, LGA, Meeting of the Minds Group and Suzy Lamplugh Trust had all expressed over these proposals which were considered to be ill thought out especially as the Law Commission had published its Draft Bill on 23 May 2014 (Appendix 4 to the report).

8.4 Licensing officers also had concerns especially in relation to the change to three year licences. Fee setting was tightly regulated and local authorities were facing unprecedented budget challenges. Although the vast majority of licence holders were responsible and transparent, annual licensing arrangements could pick up criminal convictions and relevant medical conditions that licensees may have omitted to declare, changed addresses, etc, during the currency of the licence. Triennial Licences would increase that risk.

8.5 The city taxi trade itself appeared fearful that opening the market to out of town operators might facilitate big transport companies using a loss leader approach to drive out local operators, to the detriment of local business, and eventually passengers, as competition reduced as local operators became displaced. Fares would rise as a result of newly formed monopolies muscling in on the market.

8.6 The Head of Regulatory Services explained that officers considered that the call for 'examples of conditions attached to licences would be overly restrictive or unreasonable and it was therefore viewed with concern. There could be diminution of the standards that had been developed over time, working in partnership with business and based on local evidence, that recognised the city as the visitor, leisure and conference based economy that it was. Examples could be conditions relating to livery, English language standards, driver standards, vehicle emissions standards and air quality and local community safety (CCTV requirements).

8.7 Councillor Duncan stated that he was of the view that notwithstanding that these amendments had been made in reality there might be little movement on them until after the 2015 General Election.

8.8 Councillor Gilbey stated that it was difficult to see how the changes would work in practice.

- 8.9 Councillor C Theobald referred to the fact that traffic became gridlocked in the station area including taxis seeking to drop off and pick up there. Councillor Duncan agreed that this needed to be addressed. The Head of Regulatory Services explained that this was recognised as a “pinch point” and that the taxi trade and bus operators were in discussion to seeking solutions to these problems. The matter had also been discussed at the recent Taxi Forum meeting.
- 8.10 Councillor Jarrett stated that he shared the concerns expressed and that in his view relaxation of conditions could result in a reduction in public safety both for customers and other road users as well as being overly restrictive and unreasonable in other areas.
- 8.11 Councillor Powell the Chair concurred with all that had been said, she was particularly concerned that accessibility and equality issues could be compromised. The city’s Green MP had also spoken out against these proposed changes and it was hoped that against the backdrop of serious concerns that had been voiced from a number of quarters that ultimately, these proposals might be diluted.
- 8.12 **RESOLVED** - That Committee notes the proposed amendments to the Deregulation Bill 2014 and possible implications.

9 ITEMS TO GO FORWARD TO COUNCIL

- 9.1 There were none.

The meeting concluded at 4.15pm

Signed

Chairman

Dated this

day of