

Licensing and Regulatory Committee

Minutes of the meeting held on Tuesday 16 December 2014, at the Town Hall, Royal Leamington Spa at 2.30pm.

PRESENT: Councillor Illingworth (Chairman); Councillors Doody, Mrs Gallagher, Gifford, Gill, Mrs Grainger, Mrs Higgins, MacKay, Mrs Mellor, Wilkinson and Wreford-Bush.

Apologies for absence were received from Councillor Guest.

27. **Substitutes**

Councillor Gifford substituted for Councillor Goode.

28. **Declarations of Interest**

There were no declarations of interest.

29. **Community Governance Review**

The Chief Executive gave a verbal update to the Committee regarding the latest position with the Community Governance Review.

He advised that the consent orders had been sent to the Boundary Commission for consideration and informally the Council had been assured these would be approved in January 2015.

The Chief Executive explained that the intended related alterations to the District Boundaries would not be passed in time for the election in May 2015. This was because the Boundary Commission would not accept these changes so close to May election. This would mean that a few electors would be affected by the decisions, resulting in them voting in separate areas for District and Parish/Town elections.

The Democratic Services Manager & Deputy Monitoring Officer advised that officer would update to all Parish, Town Council's and District Councillors. In addition, the affected electors would be written to, individually, explaining that they would be voting differently at District compared to Parish / Town level, along with the reasons for this.

(The Chairman had agreed to take this as an urgent, verbal update from the Chief Executive, following discussions with the Boundary Commission)

(Councillor Mrs Knight arrived during the course of this item)

30. **Minutes**

The minutes of the Licensing & Regulatory Committee held on 2 October 2014, were taken as read and signed by the Chairman as a correct record.

31. **Minutes**

The minutes of the Licensing Committee held on 19 February 2014, were taken as read and signed by the Chairman as a correct record.

32. **Record of Licensing Panel Hearings**

The minutes of the following Licensing Panel Hearings, were taken as read and signed by the Chairman as a correct record:

25 February 2014;
19 March 2014;
22 April 2014;
25 April 2014;
29 May 2014; and
3 June 2014

In addition, the Chairman thanked all Committee members for their attendance at the hearings throughout the year and gave special thanks to Councillor Wilkinson who had attended more panels than anyone else.

33. **Record of Licensing & Regulatory Panel Hearings**

The minutes of the following Licensing & Regulatory Panel Hearings, were taken as read and signed by the Chairman as a correct record:

21 August 2014;
8 September 2014; and
20 November 2014.

34. **Convictions and Cautions Policy**

The Committee considered a report from Health and Community Protection which presented the revised Convictions and Cautions Policy for Drivers of Hackney Carriages and Private Hire Taxi Drivers.

It had come to the attention of officers that the Convictions and Cautions Policy, against which all new applicants and renewal applicants for a Hackney Carriage and Private Hire Driver's License were assessed, was set at a level below the requirements outlined by all of the neighbouring authorities' policies.

This meant that, in terms of a person's history and the applicant being considered a 'fit and proper' person, our measure was considerably lower. In addition, the existing policy had many grey areas which did not assist officers, or the Committee, in assessing applicants or renewal of existing driver suitability. The review of the policy would make these areas clearer and direct attention towards an assessment of a driver in order to demonstrate that they were a 'fit and proper person'

The draft policy had been consulted upon and the comments received reviewed against the proposed policy and the resulting policy was attached as appendix 1 to the report. During the consultation process the Driver and Operators Forum were consulted on their opinions as to what standards the policy should set. They agreed a number of issues at their

initial meeting on the 5 June 2014 and these were laid out in full at paragraph 8.7 of the report.

Legal opinion had been obtained throughout the drafting of the policy and officers had drafted it to define a framework by which both officers and the committee could assess that a person was 'fit and proper' which had to be the primary consideration.

The new policy required a minimum period free from conviction. In addition, should a driver have more than one conviction, the minimum period free from conviction would have to be assessed on a case by case basis, to see if it remained appropriate. Appendix 2 to the report contained a summary of the changes from the current policy.

The Regulatory Manager presented the report and explained that public consultation had ended in August and officers had been working with the Driver and Operators Forum to ensure all comments had been addressed.

In addition, she answered queries from the Committee relating to existing drivers and the affect the policy would have on them.

The Chairman reminded the committee that it was right and proper that the Council had firm standards and Members agreed that the safety of the travelling public was paramount.

The Committee supported the recommendations in the report with some minor amendments to the wording, and

Resolved that

- (1) the Committee recommends to the Executive that the proposed policy will be used for the assessment of all new and renewing drivers;
- (2) the Committee recommends to the Executive the methodology for dealing with existing drivers who fall outside of the standards identified in the policy; and
- (3) the Committee recommends to the Executive that the taxi driver licence application form is amended to reflect the new policy.

35. Review of the Busking and Street Entertainment Code of Practice

The Committee considered a report from Health and Community Protection which outlined the revised Busking and Street Entertainment code of Practice which had been reviewed and refreshed to be more appropriate for the situations that were faced by officers of the Town Centre Management and Environmental Sustainability Teams.

The Code aimed to ensure that the Busking and Street Entertainment provided within Warwick District was of a nature that did not impact upon the enjoyment of the District by residents, businesses and visitors. The

Code also accepted the positive affect that Busking and Street Entertainments could have on the Town centers of the District.

The Busking and Street Entertainment Code of Practice had not been reviewed since before 2012 and a copy of the existing code was included as Appendix 1 to the report.

The Regulatory Team had reviewed the current policy to ensure that it reflected current practises and requests made upon Buskers and Street Entertainers. A copy of the revised Code was attached as Appendix 2 to the report.

Town Centre Managers, Warwickshire Police and Health & Community Protection Officers Team had been consulted during the review of this Code to ensure that the document provided constructive advice to prospective Buskers and Street Entertainers.

Members were reminded that although the document outlined how the Council expected Buskers and Entertainers to behave, this was a voluntary code of practice. Therefore, enforcement or compliance activities could only really be taken in the event of breaches of the legislation and not the code itself.

The Regulatory Manager presented the report and answered queries from the Committee including the time limit placed on busking and how this was to help avoid complaints from neighbouring businesses.

In addition, she advised that the Code was a tool to enable the Town Centre Managers to facilitate the town centres effectively and officers would always use their discretion when monitoring the situation. The code also provided guidance to street entertainers, interested in providing entertainment in the District and also helped to enhance the surroundings and experience for residents and visitors to our towns.

The Committee therefore

Resolved that the Busking and Street Entertainment Code of Practice, as set out at Appendix 2 to the report, is adopted.

36. **Amendment to the Hackney Carriage Private Hire Drivers renewal Licence application process**

The Committee considered a report from Health and Community Protection which requested that the renewal application process for Hackney Carriage and Private Hire Drivers be altered to require drivers to provide their Disclosure and Barring Service, formally CRB, certificate upon submission of their renewal application and that the licence was not renewed until the certificate was provided.

The application process for being a Hackney carriage private hire driver required a DBS certificate to be provided in order to assist the Council in determining whether a person was a 'fit and proper person' to hold such a licence. After a period of three years the licence required renewal and a new DBS check was needed.

Licence renewal reminders would be sent to drivers whose licences were expiring three months before the expiry of the licence. This reminder advised the drivers what was required of them, the cost of the new licence and the required forms for completion, including the advice to fill in the DBS form correctly.

On return, the officers send the DBS application to Disclosure Scotland and are able to track the progress of specific applications through a secure online tracking service. Once the tracking service showed that the certificate had been dispatched, officers contact the drivers to request a copy once they have received it.

However, this process exposed the public to risk and could raise issues with safeguarding responsibilities as the drivers whilst assessed as fit and proper under their previous expired licence may no longer be fit and proper at renewal application.

The report therefore proposed that the process be amended to advise drivers that their licence would not be renewed until the certificate was provided to officers.

In addition, the Committee were reminded that due to the current application process, there were a number of drivers whose licences had been renewed but who had failed to provide a copy of their DBS certificate, despite attempts by officers over a number of months.

The Regulatory Manager presented the report and explained that 16 existing drivers had been advised of the Council's intention to bring them before the Committee because they had failed to submit their DBS certificate when requested, despite reminders.

The Committee supported the Regulatory team in taking a tougher line with drivers when it came to their DBS certificates and therefore

Resolved that

- (1) the immediate change to the process for renewing Hackney Carriage and Private Hire Driver licences is amended, to ensure that all renewing drivers provide their DBS certificate with their application for renewal and that their licence is not renewed until the certificate is provided to Officers;
- (2) a tough line is taken with drivers who fail, have failed, or refuse to provide their DBS certificate upon renewal, since Disclosure Scotland changed their procedure; and
- (3) due to the current application process, there are a number of drivers whose licences have been renewed who are failing to provide a copy of their DBS certificate to officers since their

licence renewal despite officer attempts to obtain a copy.

37. **Hackney Carriage and Private Hire Drivers who have failed to undertake the Disability Awareness Training in accordance with the Licence conditions**

The Committee considered a report from Health and Community Protection which advised that a number of drivers had not undertaken their Disability Awareness Training course in accordance with the requirements of their licence, despite numerous attempts and courses being offered by officers and the training providers.

The Disability Discrimination Act made it unlawful for organisations which provide services to the public to discriminate against disabled people in the way they provide those services. This was much more than simply refusing or neglecting to provide a service, organisations had to make reasonable adjustments to remove or overcome elements in the services which presented barriers to disabled people. All transport providers had duties under Part 3 of the DDA 1995.

Drivers licenced by Warwick District Council to drive hackney carriage and private hire vehicles were required to take the nominated disability awareness course run by the guide Dogs for the Blind in Leamington Spa. Whilst this was not directly a condition upon their licence, it was part of the application process and, therefore, part of establishing if an applicant was 'fit and proper'.

Currently, the course had to be undertaken within 12 months of drivers receiving their licence. The Regulatory team report that, at present, there were:

- 54 drivers who had not attended the course;
- 35 drivers who had not attended the course within 12 months;
- 3 of those drivers had not undertaken the course in 36+ months of their last licence application. (Their licences were due to expire);
- 7 of those drivers had not undertaken the course in 24-36 months of their last licence application;
- 15 of those drivers had not undertaken the course in 12-24 months of their last licence application; and
- 16 drivers had not completed the course within 3-7 years. (up to 3 rounds of applications processes)

The report reminded Members that officers had delegated authority to refuse the applications of those persons who refused to attend or do not attend a Disability Awareness Course within 12 months of their licence. However, this was not an authority officers had used before but, as demonstrated by the figures above, it was an authority which required applying.

Officers were finding they had to repeatedly chase licenced drivers with letters and telephone calls to inform them of their required attendance at the course. Therefore, ensuring that the course must be taken prior to the issue of a licence would reduce officer work load, prevent confusion that

may be caused by the granting of a licence without attendance at the course and ensure that all of the drivers were 'fit and proper'.

The report therefore proposed that the application procedure be amended to ensure that drivers take the Disability Awareness Course before a Hackney Carriage and Private Hire Driver Licence is issued.

The Committee therefore

Resolved that

- (1) the delegated authority to officers of the power to refuse applications of persons who have not attended or refuse to attend the Disability Awareness Course as required by application for their driver's license, is noted;
- (2) using this authority would mean an increase in drivers who are being heard by the committee who have had their applications for licence renewal refused as they have not attended the Disability Awareness course within the period required period;
- (3) a tough line should be taken with these drivers in order to demonstrate the importance that Warwick District Council views discriminating against disabled people; and
- (4) the change in application procedure to ensure that drivers must take the Disability Awareness Course before a Hackney Carriage and Private Hire Driver Licence is issued, is agreed.

38. **Public and Press**

Resolved that under Section 100A of the Local Government Act 1972 that the Public and Press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below:

Minute No.	Para Nos.	Reason
39	1	Information relating to any individual
39	2	Information which is likely to reveal the identity of an individual

39. **Record of Licensing & Regulatory Panel Hearings**

The minutes of the following Licensing & Regulatory Panel Hearings, were taken as read and signed by the Chairman as a correct record:

17 July 2014;
14 August 2014;
25 September 2014; and
6 November 2014.

(The meeting ended at 3.40pm)