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Licensing Committee

2nd November 2015

MINUTES

Present:

Councillor Pat Witherspoon (Chair), Councillor Andrew Fry (Vice-Chair) and Councillors Tom Baker-Price, Roger Bennett, Natalie Brookes, Anita Clayton (during Minute No's 31 to 36), Gay Hopkins, Antonia Pulsford, Rachael Smith and Jennifer Wheeler

Officers:

Kevin Barnett, Sheena Jones and Dave Etheridge

Committee Officers:

Pauline Ross

29. APOLOGIES

No apologies for absence were received.

30. DECLARATIONS OF INTEREST

There were no declarations of interest.

31. MINUTES

Licensing Annual Report – paragraph 8.

In response to a question from Councillor R. Bennett, the Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), informed the Committee that he had contacted Gloucester City Council licensing authority with regard to scrap metal mobile collectors licences being displayed. They had informed him that they used a similar sized disc as issued by WRS on behalf of Redditch Borough Council. The use of a larger plate, at the rear of the vehicle, was not seen as practical, as some scrap metal mobile collectors were licensed by a number of different authorities. The Senior Licensing Practitioner further informed the Committee that he had a meeting scheduled with West Mercia Police and he would raise this with them. He was happy to take any suggestions from Licensing Committee Members to that meeting.

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Chair

RESOLVED that

the minutes of the meeting of the Licensing Committee held on 20th July 2015 be confirmed as a correct record and signed by the Chair.

32. COMPOSITION OF LICENSING SUB-COMMITTEES

The Committee received a report detailing a review carried out on the composition and terms of reference of the Licensing Sub-Committees.

The Democratic Services Manager introduced the report and in doing so highlighted that there had been some confusion as to the confirmed appointments to the Licensing Sub-Committees this municipal year, which had now been clarified.

The Democratic Services Manager expressed her thanks to the Licensing Committee Members who had given her feedback and was in agreement that paragraph 3.4 of the report should read 'trained' members and not 'experienced' members.

The report highlighted that by currently restricting the membership of Licensing Sub-Committees there was a restricted pool of trained members from whom to select. There could be occasions where members may not be able to sit on a Sub-Committee, if it was their ward area or if they were known to an applicant. Currently seeking availability of five members for a Sub-Committee was difficult as meetings were held during the day, due to the service being customer led.

For the vast majority of functions the requirement was to have a minimum of three members of a Sub-Committee, but for Licensing Act 2003 matters, it was specifically 'three members". There was no requirement for these members to be drawn from a separate sub-group of the Licensing Committee. If all members of the Licensing Committee have received appropriate training there was no reason why the pool of members drawn from should be limited to a separate, smaller group within that Committee.

Further discussion followed, whereby the Council's Legal Advisor responded to Members' questions with regard to the terms of reference as detailed on the appendices to the report. The Council's Legal Advisor highlighted that there was no statutory requirement in respect of the special provisions as to the Chair of Licensing Sub-Committee B, it was seen as good practice and tradition for the Chair of the parent committee to Chair these Hearings.

Members expressed their concerns that the Chair for Licensing Sub-Committee A, for premises hearings, was not elected until the day of the Hearing. Members would be more comfortable if they were notified prior to the Hearing of the possibility that they may be elected to Chair the Hearing.

It was agreed that the Democratic Services Officer would advise members of the requirement to Chair any future meetings when canvassing members for their availability; and confirm with those members if they would be comfortable if elected to Chair the Hearing.

Members were in agreement that it was important to review processes to make them simpler and to ensure that a good service was offered to the customer and all those involved.

RECOMMENDED that

(a) the composition and terms of reference of the Licensing Sub-Committees as set out at Appendix 1A and 1B to the report be approved; and

(b) the Head of Legal, Equalities and Democratic Services be authorised to make any consequential changes to the Constitution.

33. REVIEW OF STATEMENT OF GAMBLING PRINCIPLES - CONSULTATION RESULTS

Following on from the Licensing Committee meeting held on 20th July 2015 where Members approved, for the purpose of consultation, the draft Statement of Principles. Members were asked to consider the responses received to the consultation and the changes incorporated into the draft Statement of Principles as a result of those responses.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), presented the report and in doing so drew Members' attention to the responses received from the Gambling Commission, Hereford and Worcester Fire and Rescue Service and Coral Racing Limited, as detailed at Appendices 1, 2 and 3 to the report.

Several productive meetings had taken place with WRS and the Gambling Commission. The Gambling Commission were more than happy with their input and their suggested changes being incorporated into the draft Statement of Principles.

Members were further informed that the suggestions made by the Gambling Commission had been incorporated into the draft Statement of Principles, as detailed at Appendix 4 to the report. These included:-

- A new section that set out the Council's intention to develop a 'Local Area Profile', as detailed in section 3.0 of the draft Statement of Principles.
- Guidance for operators on the matters that the Council believed they should consider when compiling their own local risk assessments. This will be a requirement from 6th April 2016, as detailed in section 9.0 of the draft Statement of Principles.
- Further detail in relation to the way the Council would approach its enforcement and compliance role under the Gambling Act 2005, as detailed in sections 19.6 and 19.7 of the draft Statement of Principles

In response to the Chair, the Senior Licensing Practitioner, WRS, informed the Committee that, with regard to the development of a 'Local Area Profile', WRS would work with other authorities within Worcestershire, the West Midlands conurbation and nationally to see what other partners were doing and to share ideas in order to develop a 'Local Area Profile'.

Section 9.2 of the draft Statement of Principles highlighted the areas that the Council would expect operators to consider in their local risk assessments.

In order to ensure compliance with the law the Council would prepare a risk based Inspection Programme and would carry out regular 'routine' day time programmed inspections, as detailed in sections 19.6 and 19.7 of the draft Statement of Principles.

The Senior Licensing Practitioner, WRS, responded to Members' questions and informed the Committee that all relevant trade organisations had been consulted with and that only Coral Racing Limited had responded.

The Senior Licensing Practitioner, WRS, noted Members comments and suggestions with regard to:-

- Proof reading the draft Statement of Principles, as there were some inconsistencies.
- Remove the word 'villages' in the introduction section.
- Check the map, as detailed at Appendix A to the report, which showed Oakenshaw North and Oakenshaw South, as the ward area was Oakenshaw.

Councillor A Fry stated that WRS officers had done a really good job with the report presented and the work carried out on the draft Statement of Principles.

RECOMMENDED that

the amendments as detailed in the preamble above be incorporated into the draft Statement of Principles and that Council approve and publish the amended Statement of Principles by 31st January 2016.

34. DEREGULATION ACT 2015 - POLICY ON DURATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES AND PRIVATE HIRE OPERATOR LICENCES

Following on from previous meetings, where Members were provided with update reports on the implications of the Deregulation Act 2015, the Committee considered a report which detailed the changes, as from 1st October 2015, to the standard duration of hackney carriage and private hire driver licences and private hire operator licences; as a result of section 10 of the Deregulation Act 2015.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), introduced the report and in doing so informed the Committee that, with effect from 1st October 2015 and as a result of section 10 of the Deregulation Act 2015; the standard duration of hackney carriage and private hire driver licenses and private hire operator licenses was now three years and five years respectively. In particular circumstances the Council could, if thought appropriate, grant a licence for a lesser period of time.

The fees charged by the Council for hackney carriage and private hire driver licenses and for private hire operator licenses had been reviewed in light of the changes. The fees charged for three year driver licences and five year operator licenses were inevitably higher than the cost of a one year licence, as the Council's enforcement and compliance costs, for the three year and five year periods would have to be covered within the licence fee.

Members were further informed that there could be many reasons why an applicant wanted to remain on a one year licence. Inevitably the cost of applying for a three or five year licence would be higher; therefore applicants may prefer to avoid having to pay a more substantial licence fee and prefer to continue to pay a lower fee each year. Applicants could also be unsure if they intended to remain in the taxi trade for a further three year period. This could

apply to older applicants considering retirement within the three year period.

The Senior Licensing Practitioner, WRS, responded to the concerns raised by Members with regard to safeguarding, with the licence period being extended to three years for hackney carriage and private hire driver licences, in relation to what checks would be in place to ensure that WRS were notified if a driver committed a criminal or motoring offence.

Members were informed that all licensed hackney carriage and private hire drivers had an obligation to inform WRS within seven days of any conviction or caution imposed. Also hackney carriage and private hire drivers were still regarded as a 'Notifiable Occupation' although this particular concept had been recently overhauled. Under the new Home Office Guidance, Common Law Police Disclosure (CLPD), which had replaced the Notifiable Occupations Scheme; a system existed to ensure that, where there was a potential risk to the public, the police would pass information to the licensing authority to allow them to act swiftly to put in measures to mitigate any danger. The new CLPD scheme provided robust safeguarding arrangements. With regard to motoring offences, WRS were currently able to carry out on-line driver checks with the Driver and Vehicle Licensing Agency (DVLA) and would continue to check driver licences on the anniversary of their application.

At the suggestion of the Chair and in agreement with Licensing Committee Members, the Senior Licensing Practitioner was tasked to organise a meeting in January 2016 with the taxi trade; to fully inform them of the implications of the Deregulation Act 2015 and for their feedback on a review of the Private Hire Vehicle Licensing Policy (Age Limits for Vehicles with Hydraulic Tail Lifts).

RESOLVED that

the policy on the duration of hackney carriage and private hire driver licences and private hire operator licences, as detailed at Appendix 1 to the report, be approved with immediate effect.

35. UBER INFORMATION REPORT

As requested at the previous meeting of the Committee, Members had requested an update from the Senior Licensing Practitioner, Worcestershire Regulatory Services, (WRS), on the company that trades as Uber.

The Senior Licensing Practitioner, Worcestershire Regulatory Services, (WRS), provided information to the Committee and informed Members that Uber was growing rapidly and now operated in Birmingham a under private hire operator's licence granted by the City Council.

Uber Technologies Inc. was an American international transportation network company, with its headquarters in San Francisco, California. The company developed, marketed and operated the Uber mobile application (app), which allowed consumers with smartphones to submit a trip request which was then routed to Uber drivers. Essentially it was an online booking service for private hire vehicles.

Members were further informed that Uber was not the only smartphone app developed to help connect passengers and taxi / private hire service providers. There were other operations in the United Kingdom (UK) which included Hailo, Addison Lee, Bounce, Kabbee and Gett.

The activities of Uber had provoked controversy in some countries. Questions were raised about the legalities of their operating model. However, it should be stressed that in the UK, Uber appeared to be operating entirely lawfully within the private hire licensing regimes provided for in London by the Private Hire Vehicles (London) Act 1988 and in the rest of England and Wales under the Local Government (Miscellaneous Provisions) Act 1976.

The controversy surrounding Uber's operation in London related to the way that fares were calculated and charged to passengers who used the Uber app; and the fact that the fares were generally cheaper than those charged by London's world famous 'Black Cabs'. The fares charged by Uber were calculated via a Global Positioning System (GPS) and in London it had been argued that this was basically the same as using a taximeter. In London only licensed hackney carriages could use taximeters, under section 11 of the Private Hire Vehicles (London) Act 1988. Recently the transport regulator Transport for London (TfL) had brought a case to the high court following pressure from the city's black-cab and minicab drivers. But the high court ruled that Uber's app was legal in London.

Members were asked to note that the legal challenges to the way Uber operated in London were not replicated in the rest of England and Wales, as private hire vehicles were allowed to utilise taximeters outside of London as there was no equivalent provision to section 11 of the Private Hire Vehicles (London) Act 1998 in the Local Government (Miscellaneous Provisions) Act 1976.

The Senior Licensing Practitioner, WRS, responded to Members' questions and explained that fares were calculated via GPS and that passengers were notified prior to the journey as to the fare payable. Fares were cheaper due to the number of taxis available. The journey was tracked and passengers were given a booking reference. Passengers were also asked to rate their journey. This rating system had encouraged a higher level of driver standards. Uber was very streamlined. There was no need for an operator to take the bookings. The Uber app calculated the nearest available driver and allocated the job to that driver. Drivers paid a rental fee to Uber.

As with all licensed private hire operators, Uber could dispatch vehicles and drivers to carry out work anywhere in the country; provided that the vehicle and driver allocated the booking were licensed with the local authority that had issued the relevant private hire operator licence. Due to the relaxation on sub-contracting rules for private hire vehicles, which came into effect on 1st October 2015, Uber could also sub-contract bookings to other licensed private hire operators in other local authority areas so that, that operator could then dispatch an appropriately licensed vehicle and driver.

The Chair thanked the Senior Licensing Practitioner, WRS, for his comprehensive update report on Uber.

RESOLVED that

the Uber update report be noted.

36. LICENSING COMMITTEE WORK PROGRAMME 2015/2016

The Committee considered the Licensing Committee Work Programme for the remainder of the 2015/16 Municipal Year.

RESOLVED that

the Licensing Committee Work Programme 2015/16 be updated to include the items discussed and agreed during the course of the meeting.

The Meeting commenced at 7.00 pm
and closed at 8.15 pm