

Licensing Committee

Tuesday, 29 September
2020

MINUTES

Present:

Councillor Salman Akbar (Chair), Councillor Roger Bennett (Vice-Chair) and Councillors Joanne Beecham, Michael Chalk, Julian Grubb, Ann Isherwood, Yvonne Smith, Mark Shurmer and Jennifer Wheeler

Officers:

Pauline Ross, Dave Etheridge and Vanessa Brown

Committee Services Officer:

Sarah Sellers

1. CHAIRS WELCOME

The Chair welcomed the Committee members and officers to the virtual Licensing Committee meeting being held via Skype. The Chair explained that the meeting was being live streamed on the Council's YouTube channel to enable members of the public to observe the committee.

2. APOLOGIES

Apologies for absence were received from Councillors Pattie Hill, Andy Fry, Wanda King and Gareth Prosser.

Councillor Jenny Wheeler attended as substitute for Councillor King, and Councillor Mark Shurmer attended as substitute for Councillor Andy Fry.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES

RESOLVED that

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Chair

the Minutes of the Licensing Committee held on 27th January 2020 be confirmed as a correct record and signed by the Chair.

5. PUBLIC SPEAKING

There were no registered public speakers for the meeting.

6. VERBAL UPDATE ON WRS (LICENSING) RESPONSE TO COVID-19, INCLUDING SUMMARY OF DECISIONS TAKEN UNDER DELEGATED AUTHORITY

Members received a verbal report in relation to the work that Worcestershire Regulatory Services had undertaken in response to the Covid-19 pandemic since March 2020 from the Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS).

In the initial stages when lockdown was imposed in March 2020 there were challenges in setting up staff to work from home and in making alternative arrangements for licensed drivers to access the team given that government buildings had been closed and it was no longer possible to hold the usual licensing surgeries at the Town Hall.

It was necessary to work quickly to introduce new systems to enable applications to be submitted electronically and for customers to be communicated with.

Other steps taken at this stage included: -

- Communicating with licence holders to signpost them to the government support schemes, such as the Self-Employment income Support Scheme.
- Allowing licensed drivers whose licences expired after March 2020 to defer renewal for up to 6 months without being classed as a “new applicant”.
- Regularly publishing advice to licensed drivers on the steps they could take to work safely during the pandemic.

Decision making powers were delegated by the Council to the head of Worcestershire Regulatory Services to enable him to determine taxi and private hire applications which would normally have been referred to the Licensing Sub-Committee.

It was noted that under these delegated powers, since March officers had dealt with: -

- 14 applications for hackney carriage vehicle licenses all of which had been granted.
- 7 applications for private hire vehicle licences of which 6 had been granted and 1 refused.
- 3 applications for hackney carriage or private hire driver licences of which 1 had been granted and 2 refused.

With regard to the mandatory closure of pubs and restaurants, the Licensing officers worked with colleagues from the Environmental Health Team to monitor compliance with the business closure regulations.

Changes were introduced to allow pubs and restaurants more time to pay their annual premises licence fees, and advice was issued on the WRS website to assist those business which might be able to adapt to providing take away or delivery services.

Following the decision by the government to start opening non-essential commercial premises, hospitality venues were permitted to re-open from 4th July 2020. Licensing officers worked with both Environmental Health Officers and the Police to visit licensed premises when they re-opened to ensure they were following guidance and operating safely.

The guidance was regularly updated, and officers responded to numerous enquiries from business operators and from the public wishing to clarify what businesses could and could not do.

Whilst overall there were very good levels of compliance by businesses wanting to make their premises safe, some complaints were received from the public and this was another area where the Licensing officers had worked with other colleagues to investigate concerns.

In late July the government introduced measures in the Business and Planning Act 2020 to enable “pavement licences” to be issued. The aim was to provide extra outdoor seating capacity on the highway adjacent to businesses which would provide more space for social distancing and help businesses to trade. The new measures were introduced with very short timescales and officers had to work quickly to process applications.

The same legislation also made changes to allow licensed premises previously restricted to on sales to also offer customers the option of purchasing alcohol to be consumed off the premises.

On the 18th September new regulations were brought into force, which imposed a legal duty on businesses in the hospitality sector, including pubs, bars and restaurants to:

- Display the NHS Test and Trace QR code
- Request and retain customer contact details for customers not scanning the NHS Test and Trace QR code
- Ensure compliance with the “Rule of 6”
- Ensure social distancing is maintained between different groups

These regulations were followed in quick succession by regulations imposing further requirements including:-

- A curfew on businesses in the hospitality sector between 10 pm and 5 am
- A requirement for businesses selling alcohol to ensure food and drink is ordered and served to customers who are seated on the premises
- A requirement for businesses supplying food and drink to ensure their customers only consume food or drink when seated.
- A requirement for customers and staff in food and drink premises to wear face coverings
- A prohibition on allowing customers to dance or sing in large groups
- A maximum decibel level for music played in the premises
- A requirement to display notices to remind people to wear face coverings

It was envisaged that there would be further work for the Licensing officers going forward in supporting businesses with changes to regulations and monitoring compliance.

Overall, the team had had to cover a much increased workload in the last six months due to the pandemic and rapidly changing regulations. This had been challenging at times but there had also been good examples of joint working with other colleagues from public health, environmental health and the police.

In response to questions from Members the Senior Practitioner (Licensing) clarified that: -

- Consideration would be given to retaining some of the changes to processes which had proved beneficial to customers and officers. One example was the introduction of receiving applications from licenced drivers electronically which had worked well.

- Throughout advice had been given by WRS strongly recommending that licensed drivers and their passengers wear face coverings. The latest regulations had made it a legal requirement for passengers to wear face coverings.
- Drivers were being encouraged to switch to cashless payments either through using a payment device or by the operator taking payment or through use of an App; this was a choice though for drivers, and payment by cash was still possible.
- General advice on maintaining safe working practices had been given to licensed drivers by WRS throughout the pandemic and regularly updated. Overall compliance with that advice had been good and most drivers had followed it. (For reference, officers would circulate to Members a link to the advice on the WRS website.)

The Chair thanked the Senior Practitioner (Licensing) for the report and took the opportunity to pass on the thanks of the Members to all the officers for their hard work under challenging circumstances since March.

RESOLVED that

The contents of the verbal update be noted.

7. RESULTS OF CONSULTATION ON OPTIONS FOR AMENDING THE CURRENT REQUIREMENTS FOR APPLICANTS AND LICENCE HOLDERS TO DEMONSTRATE THEIR MEDICAL FITNESS TO DRIVE TAXI AND PRIVATE HIRE VEHICLES

Members received a report setting out the outcome of the consultation exercise carried out in relation to potential changes to the Council's requirements for licensed drivers to demonstrate their medical fitness to drive hackney carriage and private hire vehicles.

The report was presented by the Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS), and in doing so the following points were highlighted: -

- As part of the Council's duty to ensure that licensed drivers were "fit and proper" it was necessary for medical fitness to be assessed.
- In terms of measuring fitness of drivers, Redditch Borough Council was amongst many Councils that had adopted the "Group 2" medical standards as set out in the DVLA publication "Assessing fitness to drive – a guide for medical professionals".

- The Group 2 standards for licensed drivers were equivalent to the standards applied to bus or lorry drivers.
- For drivers licensed by the Borough Council there was a requirement to undertake a medical examination upon application and then every 5 years until the age of 60. From age 60 to 65 a medical examination was required every three years, and over 65 annually.
- The medical examination included a compulsory drug test.
- Although originally there had been two authorised medical practitioners drivers could go to, one of them had retired leaving only one authorised medical practitioner.

Officers had a number of concerns regarding the arrangements including reports from licensed drivers that it was difficult to get an appointment, the distance drivers were required to travel as the surgery was not located in Redditch, and that the remaining medical practitioner in effect had a monopoly. There were also concerns over the frequency of testing which was higher than that set out in the Group 2 standards.

A consultation was carried out between December 2019 and February 2020, and Members were referred to the questions (Appendix 1) and the responses (Appendix 2).

The three issues covered in the consultation and to be considered by the Members were: -

- Who should conduct the medical examinations?
- How often the medical examinations should be required?
- Whether drug testing should continue to be part of the medical examinations, or be dealt with via alternative approaches?

In responding to questions from Members officers clarified that the current medical practitioner was based in Alcester and that the cost of the examination was paid by the drivers. It was seen as a one on one consultation and a key aspect was that whoever carried out the examinations had to be medically qualified and would need access to the driver's medical records. Alternative options included in the consultation questions covered drivers being able to use any doctor or their own GP. Members were reminded that continuing to only have one prescribed medical practitioner raised issues around resilience and would lead to difficulties if that doctor were to retire.

It was noted that Redditch was the only council in Worcestershire which included a drug test in the medical examination.

In response to concerns that the number of replies to the consultation was low, officers advised that it was for Members to decide whether they had sufficient information to make recommendations, but that re-running the consultation would lead to delay and might not achieve a higher number of replies.

In opening the debate the Chair referred the Committee to the responses on pages 29 and 30 of the agenda pack and asked members to consider in the first instance whether drug testing as part of the medical examination should continue. On this point members were of the view that the pre-planned nature of the drugs test was a disadvantage and that some form of spot checks or random testing would be much more effective.

With regard to the issue of who should carry out the medical examinations, reservations were expressed about changing the system to allow drivers or applicants to go their own GP. There were concerns that this might lead to a less rigorous application of the relevant standards, and variations in how the standards were applied.

Overall Members were of the view that the preferred option of the four listed on page 29 would be to retain the system of using Council approved medical practitioners but to increase the number of doctors on the list, ideally to a minimum of three within Redditch.

On the issue of frequency of testing, Members considered that the second option on page 30 of moving to be in line with the Group 2 standards as set out in the Department for Transport guidance would be preferable.

RESOLVED that:

Officers be directed to take such steps as are necessary to implement a change to the current requirements for licence holders and applicants to demonstrate their medical fitness to drive as follows:

- (1) The Council expand its list of approved medical practitioners with applicants and licence holders having to be examined and certified as meeting the Group 2 standards by one of the approved medical practitioners.**
- (2) The Council amend the requirement so that medical examinations are required in line with the Group 2 standards set out in the Department for Transport publication “Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” on initial application and then every 5 years once the license holder reaches the age of**

45 and annually once the licence holder reaches the age of 65.

- (3) The Council remove the requirement for a drug test as part of the medical examination and adopt alternative approaches to drug testing.

8. RESULTS OF CONSULTATION ON REMOVING THE REQUIREMENT FOR LICENSED DRIVERS TO UNDERTAKE A PRACTICAL DRIVING ASSESSMENT EVERY THREE YEARS

Members received a report setting out the outcome of the consultation exercise carried out in relation to removing the requirement for licensed drivers to undertake a driving assessment every three years.

The report was presented by the Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS), and in doing so the following points were highlighted: -

- Licensed drivers were subject to a requirement imposed by the Licensing Committee in November 2017 to undertake a driving assessment test every three years.
- This requirement had been unpopular with drivers who regarded it as disproportionate and unreasonable.
- In light of comments from drivers at the Hackney Carriage and Private Hire Liaison Forum in September 2019, Licensing Committee decided to look at the issue and on 27th January 2020 resolved to carry out a consultation exercise on removing the requirement.
- A consultation was carried out between 12th February 2020 and 20th March 2020, and Members were referred to the questions (Appendix 2) and the responses (Appendix 3).
- As set out at paragraph 3.13 on page 35 of the agenda, of 43 responses, 35 respondents (81.4%) were in favour of removing the requirement; 8 respondents (18.6%) did not support the proposal.
- Members were referred to the additional written comments submitted by the respondents. It was noted that some of the responses from those who did not support removing the requirement were perhaps at odds with that stated position.

In responding to questions from Members, the Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS), clarified that:-

- The response rate to the survey had been quite low; roughly 1 in 10 drivers had responded.
- The cost of the driving assessment would be borne by the drivers, although no drivers had been affected yet as the requirement would only start to comply from December 2020 (being the three year anniversary of the introduction of the policy).
- The number of complaints received regarding standard of driving was relatively small.
- With the increased availability of footage from dashboard cameras, it could be said to be more effective to use that evidence to deal with individual drivers as opposed to imposing a blanket requirement on all drivers.
- Officers had the option of bringing individual drivers before Licensing Sub-Committee if there was evidence of bad driving.
- The proposal did not affect the Disability Awareness Training which was being retained.

In debating the issue views were expressed in support of retaining the driving assessment. Other views were expressed questioning whether the test added any benefit and noting that it might be more effective to target individual drivers where there were complaints.

A recommendation was moved and seconded that the policy be amended to remove the requirement for licenced drivers to undertake driving assessments every three years.

An alternative recommendation was moved and seconded that there be no change to the policy and that the requirement to undertake the driving assessments be retained.

On being put to the vote, the alternative recommendation was defeated.

RESOLVED that

The Council's policy on licensing of drivers of hackney carriage and private hire vehicles be amended to remove the requirement for licenced drivers to undertake a practical driving assessment every three years.

9. WORK PROGRAMME

Members were referred to the Work Programme at page 51 of the agenda and officers outlined the items due to be considered at the next meeting on 9th November.

The Review of the Hackney Carriage Tariff was a standard item considered annually although this was dependent on the wishes of the trade with whom the Senior Practitioner (Licensing) (SPL), would be consulting about whether they would be seeking an increase.

RESOLVED that

The Licensing Committee Work Programme 2020/21 be noted.

The Meeting commenced at 7.00 pm
and closed at 8.45 pm