

MINUTES OF A MEETING OF THE
LICENSING COMMITTEE HELD AS AN
ONLINE MEETING ON WEDNESDAY 25
NOVEMBER 2020, AT 7.00 PM

PRESENT: Councillor D Andrews (Chairman)
Councillors R Bolton, K Crofton, B Crystall,
M Goldspink, A Hall, J Jones, T Page, S Reed,
D Snowdon and N Symonds

ALSO PRESENT:

Councillor M Stevenson

OFFICERS IN ATTENDANCE:

Steven King	- Finance Management Trainee
Oliver Rawlings	- Service Manager (Licensing and Enforcement)
William Troop	- Democratic Services Officer

267 APOLOGIES

No apologies for absence were received.

268 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements to make to the
Committee.

269 DECLARATIONS OF INTEREST

There were no declarations of interest.

270 MINUTES - 11 MARCH 2020

It was moved by Councillor Jones and seconded by Councillor Page, that the Minutes of the meeting of the Committee held on 11 March 2020 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that the Minutes of the Committee meeting held on 11 March 2020 be confirmed as a correct record and signed by the Chairman.

271 LICENSING SUB-COMMITTEE - 13 MARCH, 23 APRIL, 1 JUNE, 5 JUNE 2020

RESOLVED – that the Minutes of the Licensing Sub-Committee meetings held on 13 March, 23 April, 1 June and 5 June 2020, be received.

272 RESPONSE TO DEPARTMENT FOR TRANSPORT (DFT) STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS

The Service Manager for Licensing and Enforcement presented the report to the Committee and briefly explained the main points.

Councillor Wilson asked whether there had been any instances of the Council revoking drivers' licences due

to sexual offences committed during their duty and, if so, could Members be confident checks were sufficiently stringent. He also asked whether the whistleblowing policy for staff could be extended so that drivers or operators could report concerns.

The Manager said licences had been revoked for sexual offences in the past. However, he was confident that checks could not be any more stringent at initial licensing or renewal. The lessons learnt were that the Council should maintain a close relationship with the Police to build intelligence, and to take a cautious approach. The Council had revoked licences and had the option to later reinstate them should allegations or intelligence prove to be unfounded. In relation to whistleblowing, the Council had a good relationship with most operators and they were a good source of intelligence. A review of operating conditions would take place and this would formalise the reporting process.

The Chairman said that the Council operated to a different evidential standard than the Police. There had been occasions in the past where the criminal standard had not been met, but the Council had revoked a licence.

Councillor Wilson asked whether directly contacting the Police circumvented the Disclosure and Barring Service (DBS) process, which the Department for Transport (DfT) discouraged. He also asked whether the Council would need justification for the policy of refusing or revoking a licence on the basis of drug possession (or a similar offense) until ten years after

the offence, rather than the five years the DfT recommended. He said these offences were often committed by addicts and he felt that the Council's policy was harsh.

The Chairman asked whether the DfT's recommendations were mandatory or advisory. The Manager said the Council could justify its contact with the Police as they would only disclose relevant information.

Members were advised that, in the past, this approach had highlighted issues relevant to licensing that were not visible on an enhanced DBS check. The Council must have regard to the DfT's recommendations in the formulation of its policy, and have valid justification for departing from them. The Council's more stringent standards were subject to public consultation and deemed appropriate by Members at the time. However, this could be reconsidered at the end of the consultation period if Members so wished.

Councillor Wilson said it seemed contradictory that some standards, such as those relating to driving offences, were the subject of proposed amendments due to the recommendations of the DfT, yet the Council had departed from its guidance in other areas.

Councillor Bolton asked how the Council could evaluate whether someone was alcohol or drug dependent, and if they had been free from alcohol or drugs for five years.

The Manager said that applicants were required to

declare all relevant facts. The Council may also rely on other intelligence and could insist an applicant take a test to support their claim to be free from alcohol or drug use, at their own expense, if there was a compelling reason to do so. However, the only reasonable assumption that the Council could make if there had been no convictions for alcohol or drug related offences in the last five years would be that the applicant was free from drug and alcohol misuse and dependence.

Councillor Bolton asked if the Council was considering specifying other offences similar to the use of a handheld device whilst driving. She also asked for the Manager's thoughts on the proposed Joint Authorisation of Enforcement Officers pilot.

The Manager said the suitability policy included wording that made clear similar offences to those listed were also relevant, and the list was not exhaustive. Regarding the pilot, discussions on how the funding for the scheme would work had been extensive. All drivers would be required by law to speak to Enforcement Officers from either Authority, although any enforcement action would be handled by the driver's home Authority.

The Chairman said that these measures were welcome, as drivers licensed by other Authorities could often be seen in Hertford on weekends. Councillor Bolton said she was impressed with the Council's existing procedures, but asked if the public complaints process would be improved, and, if so, how.

The Manager said the Council had been working to improve this process. One measure to make the process easier was to improve the visibility and clarity of external credentials on vehicles. Licensing would use the opportunity of the consultation to inform a wide range of taxi users how they could complain about a driver or operator.

Councillor Jones said that it seemed unduly harsh that an application would likely be rejected within five years of an offence relating to a handheld device. He said he deemed it to be a lesser offence that driving under the influence of alcohol or drugs. He also asked if the Council had considered the use of QR codes for taxi users to access details of drivers' licenses to assist in making complaints.

The Chairman said he felt the two offences were comparable and Central Government had recently made laws on this offence more robust. He added he would like to see QR codes prominently displayed in vehicles.

The Manager said this was being considered, although there were a number of technological challenges to overcome. Councillor Page asked if the Council's licensing policies and activity was externally scrutinised.

The Chairman said that applicants who disagreed with the Council's licensing decisions could appeal to the magistrates court. The Manager said the Council, including Licensing, was also periodically audited by the Shared Internal Audit Service (SIAS).

Councillor Symonds asked how the Council could differentiate between those who were drug dependent and those who used drugs in a casual or recreational manner. The Manager said the Council would rely on any intelligence it had. There were several legal difficulties around random roadside testing of drivers.

It was moved by the Chairman and seconded by Councillor Bolton that the recommendations, as detailed, be approved. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that (A) the report be received; and

(B) Officers be instructed to carry out an eight week public consultation.

273 REVIEW OF LICENSING ACTIVITY IN QUARTER 1 AND QUARTER 2 OF 2020

The Service Manager for Licensing and Enforcement presented the report to the Committee and briefly explained the main points. He thanked his Officers for their hard work under the difficult circumstances of the COVID-19 pandemic. He also explained the Council's Travel with Confidence scheme, which included online training for drivers and some funding to allow drivers to claim reimbursement for installation of a screen in their vehicles. The scheme would soon be going county-wide.

Councillor Crystall asked if Members were able to attend Licensing Appeals and how they could find details of upcoming hearings. The Chairman said the

Jungle Bar appeal hearing had been delayed. Members were able to attend and the Manager could register Councillor Cystall's interest in this application.

Councillors Bolton and Symonds asked about the responsibility for street trading moving to the Licensing and Enforcement team and when it would happen and whether the team had enough capacity for this.

The Manager said there was no fixed date but the change would happen as soon as possible. He was confident the Licensing and Enforcement team had enough capacity to take on this extra responsibility. The food safety aspect would still be dealt with by Environmental Health.

Councillor Jones asked about the reimbursement of drivers and operators for vehicle screens, and whether this could be extended to personal protective equipment (PPE) and also cover the drivers of community buses.

The Manager said the funding came from Public Health England and initially allowed the training of 100 drivers for the Travel with Confidence scheme. Accredited drivers could apply for reimbursement of the cost of the screen. Most drivers had already purchased face coverings, so the inclusion of PPE was not deemed necessary. Community buses were not a service that came under the remit of Licensing and Enforcement, but the Manager said he would be happy to assist the relevant service with an application for funding, given his experience of the process.

Councillor Jones asked what checks were in place in relation to pavement licenses. He said there had been very few applications but a considerable number of businesses had outdoor seating available. This seemed unfair on businesses which had followed due process.

The Manager said there had not been any enforcement action in relation to the licences. This could be pursued if Members so wished, but the option of pursuing struggling hospitality businesses during the pandemic would not be favourable.

The Chairman said it was best to be pragmatic, particularly as it was moving towards winter and outdoor seating would be less sought after. The Chairman, with the support of the Committee, said the Committee recognised the difficulties that hospitality, taxi and licensed businesses were facing and commended their dignity and spirit in the face of the pandemic. He also thanked Officers for their reports and work.

RESOLVED – that the report be received.

The meeting closed at 8.06 pm

Chairman
Date