

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 2 MARCH 2017

COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ

MINUTES

Present: Councillors O'Quinn (Chair), Morris (Deputy Chair), Wares (Opposition Spokesperson), Deane (Group Spokesperson), Bell, Cattell, Cobb, Gilbey, Horan, Hyde, Lewry, Page, Phillips, Russell-Moyle and Simson

PART ONE

21 PROCEDURAL BUSINESS

21a Declaration of Substitutes

21.1 There were none.

21b Declarations of Interest

21.2 There were none.

21c Exclusion of the Press and Public

21.3 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).

21.4 **RESOLVED** - That the press and public be not excluded from the meeting.

22 MINUTES OF THE PREVIOUS MEETING

22.1 **RESOLVED** – That the minutes of the previous meeting held on 24 November 2016 be agreed and signed as a correct record.

23 CHAIR'S COMMUNICATIONS

23.1. The Chair provided the following communications:

At the last Non-Licensing Committee I promised that there would be an Extraordinary Taxi forum in order to discuss issues raised by taxi firms about the safety of taxis in the city. The meeting was held on the 21st December and the taxi companies and unions were well represented. Fred Jones, general manager for cities in the UK, was there to represent Uber. There was a real opportunity to ask questions about safety and concerns about the large number of Transport for London taxis in the city.

At the last Committee meeting it was also stated that officers had tried to contact TfL in order to arrange a meeting to discuss the joint enforcement of taxis in Brighton and Hove - this helps to level the playing field a bit between Brighton and Hove Licensed taxis and TfL licensed taxi drivers. The officers have continued to try and arrange a meeting but there has been no reply from any of the people contacted at TfL. After the Extraordinary taxi forum I wrote a letter to the Mayor of London and had a good response to a short while ago.

Here is a short extract from the letter:

"I believe that a national change is needed to address the issue of cross-border hiring so that all taxi and private hire vehicles journeys either start or end in the area in which the driver, vehicle and operator is licensed. As part of my taxi and Private Hire Action Plan, I committed to lobby Government for a change in the law. The action plan is available on TfL's website.

Both my Deputy Mayor for Transport, Val Shawcross CBE, and I have raised this issue with Government Ministers and the Department for Transport. Whilst this issue is recognised by the DFT, it has stated that it is not minded at this stage to introduce such a requirement. This is disappointing but I believe the issue needs to be addressed and we will continue to lobby Government. I would welcome your support in raising this issue".

The Mayor goes on to give me a contact name at TfL, saying that the contact would be happy to meet us. We are at present in the process of arranging that meeting".

The Local Government Association is also committed to lobbying the government for a change in the legislation regarding taxis as a considerable number of local authorities are experiencing problems with TfL licensed taxi drivers. I went to a Licensing Conference at the LGA in early February and this issue of taxis was addressed there and I heard of the many problems experienced in places such as Birmingham, Bristol and Worthing.

Indeed to inform the committee that at the last Taxi Forum the representatives from local taxi firms and unions all left the meeting in protest at three Brighton and Hove licensed taxi drivers being there as representatives of Uber. Officers are determining how to organise the next taxi forum meeting in May.

We continue to scrutinise Uber with great care and attention as we are obliged to because the renewal of their licence in November is dependent on it.

24 CALLOVER

24.1 **RESOLVED** – That all items be reserved for discussion.

25 PUBLIC INVOLVEMENT

25.1 There were none.

26 MEMBER INVOLVEMENT

26.1 There were none.

27 AMENDMENTS TO THE BLUE HANDBOOK FOR HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS

27.1 The Committee considered a report of the Executive Director Neighbourhoods, Communities & Housing that set out a review of byelaws, conditions, advice and information for Hackney Carriage and Private Hire Drivers, Vehicles and Operators contained in the blue handbook (The Blue Book).

27.2 Councillor Page noted his concern that vehicles would no longer be required to carry a spare wheel.

27.3 The Hackney Carriage Officer clarified that newer vehicles no longer carried a spare wheel and instead, a foam filler canister was used in the event of a puncture that allowed a vehicle to continue its journey sufficiently that the tyre could be replaced.

27.4 Councillor Wares noted that due to an unrelated matter, many attendees of the most recent Brighton & Hove Hackney Carriage and Private Hire Consultation Forum had left. Councillor Wares stated that this may have meant the Forum had not been presented the amendments in their current format and there could be uncertainties about the level of engagement and therefore the level of support for the changes. Councillor Wares asked if it might be appropriate for the committee to defer the item to be certain that the consultation was thorough.

27.5 The Hackney Carriage Officer clarified that the proposals had been discussed in December 2016 at the Forum. The Public Health Licensing Lead added that the amendments were mostly minor or legislatively necessary.

27.6 Councillor Simson noted that paragraph 4.1 of the report stated that the amendments had been discussed but the committee had no indication whether the Forum had been in agreement.

27.7 Councillor Deane asked for clarification of whether the proposals had been discussed further.

27.8 The Hackney Carriage Officer replied that the amendments had been circulated to the Forum and discussed at a meeting on 21 December 2016 and two sets of comments had been received from that. Furthermore, the amendments had been emailed to every Forum member with an invitation to comment.

27.9 Councillor Wares moved a motion to defer consideration of the report to the next meeting in order to carry out a further round of consultation with the Brighton & Hove Hackney Carriage and Private Hire Consultation Forum.

27.10 Councillor Bell seconded the motion.

27.11 The Chair put the motion to the vote which failed.

27.12 The Chair then put the recommendations to the report which were approved.

27.13 **RESOLVED-**

- 1) That Committee approve the additions to the handbook contained in (Appendix 1).
- 2) That Committee refuse the alternative livery on Hackney Carriages Operated by Brighton & Hove Streamline as shown in (Appendix 2).
- 3) That Committee agree that Hackney Carriages may display the Operator Name and phone number in Aqua as approved by the Director, providing the name and number is in proportion and does not exceed the corporate logo.

28 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT & MONITORING

- 28.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities & Housing that updated Members on enforcement action taken against Hackney Carriage & Private Hire Drivers and Applicants between November 2016 and February 2017.
- 28.2 Councillor Wares asked for more information on the action taken on 7 December 2016 for overcharging and the action taken on 4 January 2017 to refuse to renew on the basis of information disclosed on DBS certificate.
- 28.3 The Hackney Carriage Officer explained that the first instance was overcharging for the number of persons travelling on the taxi and the second was the subject of a magistrate appeal so more information could not be given at this stage.
- 28.4 Councillor Simson enquired as to how penalties were determined and by whom as in her view, some penalties did not reflect the seriousness of the offence.
- 28.5 The Public Health Licensing Lead replied that each case was reviewed in a multi-agency meeting that assessed each case individually but also with account of case law and previous examples of similar offences. The final decision on penalties was made jointly by the Trading Standards Manager and himself with advice from legal services.
- 28.6 Councillor Page stated that two cases detailed very serious offences of violence and he was very concerned that lenient penalties had been issued for both. Councillor Page added that he was puzzled that there was not a single case of dangerous driving on the list of actions taken.
- 28.7 The Hackney Carriage Officer stated that the two instances of assault were historic offences and a penalty had been issued as part of a new licence application. In relation to dangerous driving, Sussex Police did not inform the council of offences unless they were serious but offences were picked up on the renewal of licences.
- 28.8 Councillor Russell-Moyle enquired as to who determined the punishment in instances of infringement by other authorities and whether enforcement of taxis based outside the city was based on Brighton & Hove standards or the licensing authority the driver was

registered to and if officers were therefore required to know the licensing regimes of neighbouring authorities.

- 28.9 The Hackney Carriage Officer answered that instances of infringement were reported back to the licensing authority the driver was registered to. That did mean that licensing officers were required to be aware of the licensing regimes of the various authorities and this was facilitated very well through close partnership working.
- 28.10 Councillor Russell-Moyle asked if feedback on action taken was provided by other authorities where infringements were reported to them.
- 28.11 The Hackney Carriage Officer answered that no infringements had been reported other authorities to date.
- 28.12 Councillor Morris asked whether there was an escalation of action in relation to repeat infringements and warning.
- 28.13 The Public Health Licensing Lead confirmed that actions did follow an escalating scale for repeat offences on a case by case basis and this followed Enforcement Policy.
- 28.14 Councillor Deane noted that there had been persistent over-ranking on Surrey Street by taxis queuing to enter Brighton Station that was of great distress to residents and caused severe congestion issues. Councillor Deane asked why no action had been taken on the matter.
- 28.15 The Hackney Carriage Officer stated that this was not an over-ranking issue as the taxi rank at Brighton Station was not an appointed rank and was based on private land and so the queuing on Surrey Street was deemed as waiting to access the Station.
- 28.16 Councillor Deane enquired as to which committee had delegated functions for anti-social behaviour by taxi drivers.
- 28.17 The Public Health Licensing Lead clarified that the Environment Protection Team could address excessive noise issues and anti-social behaviour could be reported directly to Sussex Police as part of its Operation Crackdown policy.
- 28.18 **RESOLVED-** That Members note the contents of this report and that officers should continue to take action as appropriate.

29 STREET TRADING – REVIEW OF MOBILE STREET TRADING NEAR SCHOOLS IN BRIGHTON & HOVE

- 29.1 The Committee considered a report of the Executive Director, Neighbourhoods, Committees & Housing that set out the results of the limited review of all street trading activity within 50m of schools as requested by the Committee at its meeting held in November 2016.
- 29.2 Councillor Wares stated that whilst not directly related to the report, there was an urgent matter that the committee needed to be made aware of, and review. Councillor Wares noted that current policy meant that mobile stalls were not permitted in the city centre

but could be located on the outskirts of the city. Councillor Wares stated that there was currently a mobile stall located directly opposite Hove Town Hall and because the location was just outside the regulated zone, no action could be taken. The stall was neither infrequent nor itinerant and traded in favourable circumstances compared to the local business that had to pay business rates. Councillor Wares supplemented that the mobile stall was parked on double yellow lines which were put into place by the council to prevent obstruction or danger.

29.3 Councillor Wares moved the following motion to add a recommendation 2.3 as shown in bold italics below:

2.3 That the committee requests officers to explore options for a review of the street trading policy with a view to changing the designation of streets in zones A and B and consider options to prevent or restrict traders from trading on yellow lines or otherwise (potentially) contravening any road traffic regulations, and bring a report to the next committee for consideration

29.4 Councillor Bell formally seconded the motion.

29.5 The Public Health Licensing Lead stated that the Licensing team were guided by their colleagues in Highways in relation to parking obstructions and dangers and they had advised that the mobile stall would have been asked to move if it had met this criteria. Conversations between the two regarding parking on double yellow lines were continuing and could be included in any report on options should that be agreed.

29.6 Councillor Morris stated that the list of consultees at paragraph 4.1 of the report appeared odd as it did not include any schools which were the focus of the report.

29.7 The Public Health Licensing Lead clarified that the list at paragraph 4.1 detailed organisations that would be consulted in the case of a wholesale review of policy. The consultation with schools carried out was detailed at paragraph 3.2 of the report.

29.8 Councillor Bell enquired as to the regulations on street furniture in place for mobile stalls.

29.9 The Public Health Licensing Lead stated that licenses for street furniture were required and should be produced where challenged to.

29.10 Councillor Simson noted that a review of the council's Street Trading Policy had last been undertaken in November 2013 and asked if this was a typical timeframe for a review to be instigated. Furthermore, Councillor Simson enquired as to the difference between a pedlars certificate and a street licence.

29.11 The Public Health Licensing Lead answered that there was no statutory obligation to review Street Trading Policy within a certain timeframe and changes were typically made according to circumstance. With regard to pedlars certificates and street licences, the Public Health Licensing Lead explained that the latter were issued by the council and the former were issued by the police according to their own guidelines and case law about how they are issued.

29.12 Councillor Simson asked if those issued pedlars certificates were enforced by the police.

29.13 The Public Health Licensing Lead stated that the police would lead on enforcement and the council also undertook monitoring activity.

29.14 The Chair then put the motion proposed by Councillor Wares to the vote which was carried.

29.15 The Chair put the recommendations as amended to the vote which were approved.

29.16 **RESOLVED-**

- 1) That the committee notes the contents of this report.
- 2) That officers should continue to monitor trends of applications/complaints and illegal activity to inform future policy.
- 3) That the committee requests officers to explore options for a review of the street trading policy with a view to changing the designation of streets in zones A and B and consider options to prevent or restrict traders from trading on yellow lines or otherwise (potentially) contravening any road traffic regulations, and bring a report to the next committee for consideration

30 ITEMS TO GO FORWARD TO COUNCIL

30.1 No items were forwarded to Full Council for information.

The meeting concluded at 4.35pm

Signed

Chairman

Dated this

day of