

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 29 NOVEMBER 2018

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors O'Quinn (Chair), Morris (Deputy Chair), Hyde (Opposition Spokesperson), Deane (Group Spokesperson), Bennett, Cattell, Cobb, Horan, Knight, Marsh, Page, C Theobald and Wares

Apologies: Councillors Gilbey and Lewry

PART ONE

8 PROCEDURAL BUSINESS

8.1 There were none, however apologies were received from Councillors Gilbey and Lewry.

8(b) Declarations of Interest

8.2 Councillor Knight declared a personal and prejudicial interest in relation to Item 14 on the agenda "Animal Activity Licensing" by virtue of the fact that she ran a doggie day care centre. Councillor Knight confirmed that she would leave the meeting during consideration of the report and would take no part in the discussion, debate or voting thereon.

8(c) Exclusion of Press and Public

8.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

8.4 **RESOLVED:** That the press and public be excluded from the meeting during consideration of the items contained in part two of the agenda.

9 MINUTES OF THE PREVIOUS MEETING

9.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 28 June 2018 be agreed and signed as a correct record.

10 CHAIR'S COMMUNICATIONS

Electric Charging Points – Electric Powered Vehicles

- 10.1 The Chair, Councillor O’Quinn, explained that she had recently been at a well attended a presentation in respect of re-chargeable vehicles. Representatives on behalf of the trade had been widely represented and had been able to give their perspective.

Gambling - Fixed Stake Betting Machines

- 10.2 The implementation of measures to limit stakes had not been brought forward to April 2019 after the proposed delay to October 2019. The changes to be implemented were welcomed as they sought to address this issue. Limits on the stake that could be laid down would be helpful as the misery which could result from reckless betting in terms of debt and mental health were well documented.

Uber Hearing

- 10.3 The Uber Hearing had taken place earlier that week on 27 November and those in attendance had been advised that the Judge’s decision would be delivered on 11 December. Irrespective of the result the Chair wished to place on record her thanks to all of the officers involved for their hard work and commitment in organising the hearing, on the day of the hearing and subsequently.

Animal Licensing Legislation

- 10.4 The report (Item 14 on the agenda) in relation to animal licensing legislation was welcomed as it the issue and potential issues around dog boarding had been explored and that was helpful, given the growth in dog care businesses over recent years.

- 10.5 **RESOLVED** – That the content of the Chair’s Communications be noted and received.

11 CALLOVER

- 11.1 All items set out on the agenda were called for discussion with the exception of Item 18. Hackney Carriage and Private Hire Driver Enforcement.

12 PUBLIC INVOLVEMENT**12(a) Petitions**

- 12.1 There were none.

12(b) Written Questions

- 12.2 One written question had been notified by Ms V Paynter. It was noted that this had previously been asked at the meeting of Full Council held on 18 October but at the Chair’s discretion Ms Paynter was invited to ask her question again.

Ms Paynter put the following question:

“A serious loss of the most frequently specified type of taxi needed by passengers has arisen because of taxi licensing policies that prioritise wheelchair vehicles. To what extent are the Council aware of the damage this has caused the trade and to disenfranchised people needing saloon car access?”

12.3 The Chair, Councillor O’Quinn responded in the following terms:

“The Committee recognises the importance of having a mixed fleet which includes the provision of wheelchair accessible vehicles (WAV’s). As part of our 3 yearly review of the Taxi Handbook (Blue Book). We have commissioned an Unmet Demand Survey, which among other things, looks at the types of vehicles that make up the taxi fleet, including the number of WAVs as a proportion of the overall fleet. The Unmet Demand Survey has been completed by independent consultants and the report submitted by officers is to be found at Item 15 on the agenda. There will be a presentation by representatives on behalf of the independent consultants following which the Committee will give consideration to whether any changes are required to the current taxi policy.”

12.4 Ms Paynter was invited to put a supplementary question. Ms Paynter referred to her own experiences and her concern that----

12.5 In responding the Chair stated that Ms Paynter’s concerns although they had not been put in the form of a question were noted re-iterating that the Committee would determine whether or not the current policy required amendment when they considered the findings of the Unmet Demand Survey and the accompanying Officer report at the appropriate point on the agenda.

12.6 **RESOLVED** – That the Public Question and the Chair’s response to it be noted.

12(c) Deputations

12.7 There were none.

13 MEMBER INVOLVEMENT

13.1 There were no items.

14 ANIMAL ACTIVITY LICENSING

14.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing detailing the legislative changes which had been made to the Licensing of Animal Activities. The report set out the revised fees and charges implemented from 1 October 2018 which were based on the cost of recovery in relation to the licensing of Animal Activities and set out the delegation of authority for granting, refusing, suspending or revoking of licences. The level of fees and charges levied were to be set locally and were based on full cost of recovery. The Animal Welfare (licensing of activities involving animals) (England) Regulations 2018 had come into effect on 1 October 2018.

14.2 It was noted that the new regulations would amend or repeal pre-existing legislation as set out in the report and were now the primary legislation for licensing, animal boarding (catteries and kennels), home boarding of dogs, dog day care, dog breeding, riding establishments, sales of

animals (formerly pet shops) and performing animals. A copy of the legislation in full was attached at Appendix 2 to the report.

- 14.3 The Chair, Councillor O'Quinn, stated that the changes in legislation were welcomed as they clarified many of the grey areas that had emerged as a result of the rise in dog care services in particular, home care services which had risen over recent years. Detail specifying arrangements as to how dogs could be accommodated within a property and in relation to written consent being given by a dog's owner were helpful both for those running small businesses and for dog owners themselves.
- 14.4 Councillor Hyde concurred, stating that she was pleased to note that concerns that had been expressed in regard to the previous legislation and the new regulations as originally drafted had been addressed. Councillor Hyde cited a resident in her ward who operated a small reputable dog care business around her child care responsibilities. Whilst it was important that animals were cared for to an appropriate standard if requirements had been too draconian she would have had to cease her business which would have placed her family in a very difficult financial situation.
- 14.5 Councillor Cattell sought clarification regarding elements of the legislation which related to dog grooming and regarding where the activities of organisations such as the RSPCA fell within the legislation.
- 14.6 Councillor Page sought clarification regarding the operation of circuses or other shows where live animal performances took place and in respect of the checks and balances which were in place to ensure that these animals were properly kept and looked after, also in relation to pet vending establishments where the level of fees chargeable appeared to have reduced. It was explained that the number of pet shops in the city had reduced and that that was also reflected in the level of fees charged. Councillor Page also enquired regarding the process for revoking/refusing a licence and it was explained that was a two stage process.
- 14.7 Councillor Morris stated that he still had some concerns regarding the conditions under which animals were kept and how their health needs were catered for, particularly aquatics, it was explained that the care of all animals and fish was covered by these regulations and parallel legislation.
- 14.8 Councillor Deane stated that dog walking services did not appear to be covered but it was explained that this was regulated by legislation.
- 14.9 Councillor Wares stated that for completeness in his view the Committee also needed to ratify the proposed delegations to officers to so that they were authorised to invoke them as appropriate. The Chair, Councillor O'Quinn concurred in that view and Councillor Wares formally proposed the resolution set out at (3) below. This was seconded by Councillor O'Quinn and then voted on and agreed unanimously by the Committee.
- 14.10 **RESOLVED** – (1) That the Committee notes the legislative changes to the Licensing of Animal Activities set out in the report;
- (2) That the Committee ratifies the fees and charges detailed in the table set out at paragraph 3.2.3 of the report; and
- (3) To the extent that it may be required, that the Committee also ratifies the proposed delegation of powers as set out on paragraph 3.5 of the report.

Note: Having declared a personal and prejudicial interest in relation to the above report Councillor Knight withdrew from the meeting during its consideration and took no part in the discussion or decision making process.

15 HACKNEY CARRIAGE UNMET DEMAND SURVEY

Presentation – Ian Millership, LVSA – Unmet Demand Survey

- 15.1 Before proceeding to consider the officer report, the Committee received a presentation from Ian Millership of LVSA who had been engaged by the Council to carry out its unmet demand survey. It was explained that the aim of the survey had been to identify any significant unmet demand, or otherwise, to provide the committee with evidence of the current position regarding unmet demand and its significance at the present time, to review the policy of managed WAV growth and to consider other matters including the level of environmentally sustainable vehicles in the fleet.
- 15.2 It was explained that the survey had been undertaken between February and October and that the test of main rank demand had been carried out in Spring 2018, full rank observations had taken place in May 2018 and on street interviews had taken place during March and April 2018. Key stakeholders had been actively involved in the process, some in face to face consultation, an all driver survey had also been carried out and meetings had taken place with trade reps. There were 575 hackney carriage vehicles and 455 private hire vehicles licensed in the city, although it was difficult to know the number of out of town vehicles operating in the city; the trade structure was complex and this allowed a high degree of flexibility in relation to the operating models used. It had been identified that there was a maximum of 660 drivers who did not have their own vehicle with 352 vehicles whose owners were unable to drive them; there was no restriction on any of the 1,020 vehicles which prevented them from being rented to appropriate drivers.
- 15.3 There remained a wide geographic spread of ranks and an early review had found that demand had reduced by 1-13% and that overall demand at ranks was 27% less than it had been in 2015. There appeared to be very low levels of unmet demand with the index of significance of unmet demand was at its lowest from all recent surveys and overall the index was now negligible compared to the 80 vehicle cut-off and the only increase was in latent demand. In terms of disability, whilst there were some detailed issues which needed to be addressed, it was generally accepted that a mixed fleet represented the best option for dealing with a range of disabilities, the level of observed usage by those in wheel chairs remained the same as in 2015, there was a higher percentage of WAV vehicles at ranks than in actual fleet figures and the percentage of WAV's seemed right for the area.
- 15.4 The key conclusions of the survey were that the rank based market had reduced, hailing was strong, the hackney carriage app had, had a positive impact on hackney carriage vehicle usage, there was confidence that unmet demand was very unlikely to become significant, on balance there was a benefit to leaving managed growth in place but no further increase in WAV vehicles was necessary, there was scope for further work in terms of hackney carriage vehicles in order to replace inappropriately met demand; also there was a need to prepare for becoming more environmentally friendly.

- 15.5 In answer to questions regarding possible reasons for the fall in demand, Mr Millership explained that this could be attributed to a number of factors, although he considered that this could in part be as a result of customers being more selective and cost conscious when choosing their mode of cross town transport opting to walk or use a bus when there was sufficient time to do so rather than calling a taxi or visiting a rank as their default.

Consideration of the Officer Report

- 15.6 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing which presented the results of the Hackney Carriage Unmet Demand Survey and set out various options for consideration going forward. It was noted that the Executive Summary and recommendations put forward by the Council's consultants, LVSA, were set out in Appendix A to the report.
- 15.7 Councillor Deane referred to the reduction in use of ranks seeking confirmation regarding whether that was attributable in part to the overall fall in demand and it was confirmed that it was. The number of trips made had reduced and major concerns had also been voiced by representatives of the trade in relation to out of town vehicles taking their trade.
- 15.8 Councillor Wares referred to the frequency, accessibility and general reliability of public transport links across the city which made use of other modes of transport viable in the absence of time constraints, considering that could also be a contributory factor.
- 15.9 Councillor C Theobald referred to the fact that she had pre-booked a taxi on a Saturday evening recently, which notwithstanding that it had been pre-booked had failed to arrive, that was unacceptable. It was explained that could happen at times when there was a surge in demand and there was a shortage of vehicles as a result.
- 15.10 Councillor Hyde referred to the trends in usage which were apparent from the survey results and to the fact that consultation had taken place with those representing the trade and that 53% supported continued managed growth.
- 15.11 Councillor Bennett referred to the type and specification of wheelchair accessible vehicles noting that they were not appropriate for use by all disabled passengers. She was aware of a constituent living in her ward who was reliant on taxis and who because of the nature of their disabilities had an electric wheelchair. On a number of occasions she had been unable to take the vehicle which had arrived. Further thought needed to be given to the type of such vehicles provided in the longer term. The Chair Councillor, O'Quinn concurred there was a need for some larger vehicles which could accommodate heavier electric wheelchairs they were expensive to purchase and run and the number of such vehicles required would be considered by the next survey. Greater use of electric powered vehicles was also being explored with trade representatives.
- 15.12 **RESOLVED** – (1) That the Committee agrees to increase the number of Hackney Carriage Vehicle Licences issued by the Council to 5 annually, such licences to be issued in May each year commencing in May 2019; and

(2) Resolves that any additional licence issued under (1) above should be issued in accordance with the conditions attached to the Brighton & Hove City Council, Hackney Carriage Vehicle Licence Waiting List and to vehicles which are constructed or adapted and configured to carry passengers seated in wheelchairs, or vehicles which are fully electric, or plug in hybrid (PHEV) vehicles the type and design of the vehicle to be agreed by the Executive Director of Neighbourhoods, Communities and Housing.

16 HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS BLUE BOOK REVIEW – 5TH EDITION

- 16.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing detailing the review which had taken place in preparing the fifth edition of the Hackney Carriage and Private Hire, Drivers, Vehicles and Operators Handbook. The Committee were requested to approve the content of the handbook as set out in Appendix A to the report.
- 16.2 It was noted that the handbook was designed to combine the existing bye-laws, conditions advice and information for hackney carriage and private hire drivers, vehicles and operators previously in various separate forms in one place. This had first been approved by the Committee in February 2007. All changes previously agreed by Members since November 2015 had been included in this new and updated version of the Blue Book which also included updated guidance on determining the suitability of applicants and licensees following suggested guidance issued by the Institute of Licensing.
- 16.3 It was explained that it had been intended to include amendments to CCTV requirements following intervention from the ICO and the Council becoming Data Controller, however, it had become clear that further consultation and clarification from the ICO would be necessary prior to implementation and in consequence a further report on CCTV would come forward to the Committee at a later date. It was intended that the handbook would be produced in a booklet format and would be made available for all hackney carriage and private hire drivers, proprietors and operators and would also be available on the Council's website. The proposed changes had been highlighted for Members' benefit.
- 16.4 Councillor Hyde asked whether consultation had taken place with representatives of the trade in respect proposed changes. It was confirmed that it had and that the Unions had also been involved in the process. The amendments had also been discussed at a recent meeting of the Taxi Forum and were fully supported.
- 16.5 Councillor Cattell referred to the references to the behaviours expected when carrying anyone who was inebriated. She was concerned that there were particular sensitivities to be when dealing with young people, girls in particular, who could be especially vulnerable if drunk. It was explained that these issues were dealt with as part of the driver training programme.
- 16.6 Councillor Page expressed concern that in his view some of the amended wording appeared to be diluted in relation to potentially serious offences than had previously been the case. It was explained that whilst at instances where an offence, criminal or otherwise had occurred there was sufficient flexibility and discretion for each incident to

be judged on its individual merit and a proportionate approach adopted. If serious, the sanction(s) invoked would always be robust with details of the action(s) taken included in the Enforcement and Monitoring report (a standing agenda item) at a subsequent meeting of the Committee.

- 16.7 **RESOLVED** - That the Committee approves the 5th edition of the Blue Book handbook as set out in Appendix A to the report.

17 LICENSING FEES 2019/2020

- 17.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing which set out the proposed licence fees and charges for 2019/20 in relation to Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, taxi licensing and other licensing functions.
- 17.2 The Regulatory Services Manager, Jim Whitelegg, explained that in order to ensure that council tax payers did not subsidise licensing administration work, fees needed to be raised and set at a level aimed to cover the cost of administration of each regime within the constraints of regulation. Licence fees could not be used in order to raise surplus revenues. A further review had been taken of the way in which charges were calculated and the suggested level of fees had therefore been calculated based on the most recent and detailed analysis of officer time. Details in respect of how the setting of fees was regulated including changes which had been made as a result of legislation and cases was set out in the body of the report.
- 17.3 Councillor Wares sought clarification regarding how the percentage figures had been arrived at and it was explained that they had been rounded. Councillor Wares also queried whether the percentages cited could in fact generate a higher increase than anticipated and whether if that were to be the case it would be more appropriate to refer to the actual sum charged for the respective types of licence rather than expressing that figure as a percentage. Councillor Wares also sought confirmation that reports seeking approval of subsequent fees would be brought back for approval by the Committee. It was explained that a licensing fees report seeking approval of the level of fees for any given financial year was brought to Committee for its agreement and ratification annually.
- 17.4 **RESOLVED** – That the Committee approves the following licence fees:
- Raise all taxi licence fees by the corporate rate of inflation (or 2%) for 2019/20;
 - Sex entertainment venues and sex establishment fees – fees remain unchanged;
 - Street trading fees – fees remain unchanged; and
 - All Gambling Act 2005 – fees remain unchanged.

NB: A list of agreed fees for 2018/19 and proposed fees for 2019/20 was set out in Appendices 1 and 2 to the report for comparative purposes.

18 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING

- 18.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities and Housing which provided an update for Members on enforcement action taken against Hackney Carriage & Private Hire Drivers and Applicants between June 2018 and November 2018.
- 18.2 **RESOLVED** - That the contents of the report be noted, officers to continue to take action as appropriate.

19 ITEMS REFERRED FOR COUNCIL

- 19.1 There were none.

The meeting concluded at 6.35pm

Signed

Chairman

Dated this

day of