

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 26 NOVEMBER 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), Allen, Harmer-Strange, Hawkes, Hyde, Kitcat, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins, West and Wrighton

Apologies: Councillors Marsh

PART ONE

9. PROCEDURAL BUSINESS

9a. Declarations of Substitutes

9.1 Councillor Kevin Allen declared that he was substituting for Councillor Mo Marsh.

9b. Declarations of Interests

9.2 There were none.

9c. Exclusion of the Press and Public

9.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Committee (Non Licensing Act 2003 Functions) 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 100(1) of the Act).

9.4 **RESOLVED** – That the press and public be not excluded.

10. MINUTES OF THE PREVIOUS MEETING

10.1 **RESOLVED** – That the minutes of the meeting held on 26 June 2009 be signed by the Chairman as a correct record.

11. CHAIRMAN'S COMMUNICATIONS

- 11.1 The Chairman updated the Committee that in June 2009 BTec and NVQ courses for new taxi drivers were available at no extra cost to the applicants. Applicants could now apply for funding for these courses, even if they had received funding for other courses and most providers were able to fund a percentage of the costs for those who could not access Central Government funding. The Learning and Skills Council had temporarily withdrawn its funding due to concerns about fraud and abuse however.

Officers had considered spreading the costs of payments for these courses to help applicants. If other trainers were required to be identified however, this would require reversing the previous Committee decision and assessing new training materials and methods, which would be at a cost to the Council, although this could be recoverable at a later stage from the applicants.

- 11.2 The Chairman noted position for taxi driver and stated that since that since the last Licensing Committee, officers in the Hackney Carriage Office have suspended two drivers and revoked five drivers licences. Two drivers were also issued with a final warning which will remain on their licence for 5 years. The suspensions were as a result of medical problems.

12. PUBLIC QUESTIONS

- 12.1 There were none.

13. HACKNEY CARRIAGES UNMET DEMAND SURVEY

- 13.1 The Committee considered a report from the Director of Environment regarding the Hackney Carriages Unmet Demand Survey (for a copy see minute book).

- 13.2 The Head of Environmental Health and Licensing, Mr Nichols, began by summarising the report and stating that all options were open for Members to consider, including restricting numbers, delimiting and maintaining managed growth. He stated that from experience the policy of managed growth had served the authority well over the years, but noted the current financial climate, which led to uncertainty in the business environment of the city.

Mr Nichols went on to say that the wheelchair access vehicles report dealt with a number of possibilities presented by the "trade", including options that any new licenses issued should be wheelchair accessible vehicles and that one vehicle should be required to go on the larger circuit. Other considerations included requiring at least 5 per cent of vehicles to be wheelchair accessible and to put a requirement on the private hire trade for new entrants to have wheelchair accessible vehicles. Finally, an option to reduce the licence fee for wheelchair accessible vehicles could be considered. Mr Nichols introduced Ms Eccles, Consultant from Halcrow Group Limited, to present the Unmet Demand Survey.

- 13.3 Ms Eccles gave a presentation to the Committee and highlighted that there was no observed unmet demand in the city. Through Stakeholder consultation it had been

identified that there were problems around the lack of ranks in the city, with suggestions for new ranks to be implemented.

There was a similar latent demand value for taxi users with and without mobility impairment although waiting times for a disabled accessible vehicle were almost four times that of a standard vehicle. She concluded that an extra 428 disabled accessible vehicles would be needed to alleviate this discrepancy.

Ms Eccles stated that the Committee were able to continue with the limited growth policy, issuing wheelchair accessible licences in any number to alleviate demand; issue any number of licences for either regular or wheelchair accessible vehicles; or remove the limited growth policy altogether.

- 13.4 Mr Nichols noted that the Alcohol Support Partnership had achieved funding from Central Government to provide taxi marshals in the city centre. A tendering process was currently underway and the Marshals would be working with Sussex Police as part of Operation Marble.
- 13.5 Councillor West noted that it appeared from the report that taxi usage was increasing faster than taxi availability. He asked if this was the case how could there be no unmet demand in the city. Ms Eccles replied that since the last survey had been conducted there had been an increase in taxi usage. However, it appeared that these people were waiting less time for a taxi; therefore there was no increase in demand.
- 13.6 Councillor West noted that over 13 per cent of people had given up waiting for a taxi and felt this was significant enough to suggest there was an unmet demand in the city. Ms Eccles replied that this related to latent demand. For the purposes of the survey latent demand was also considered and the figures were not considered significant enough to suggest there was an unmet demand in the city.
- 13.7 Councillor Mrs Theobald noted that there did not seem to be enough female drivers available at night and asked if this was being looked into. She also noted that whilst there was a need for more wheelchair accessible vehicles, many currently in operation were too high for those with differing abilities to access. She felt that taxi drivers needed training on assisting those with varying degrees of physical ability. Ms Eccles agreed that increasing the number of women drivers was an issue that needed more focus.
- 13.8 Councillor Older asked what effect maintaining the same number of licences would have on the availability of wheelchair accessible vehicles. The Chairman replied that any resolution passed by the Committee could include provisions for wheelchair accessible vehicles if desired. She felt that the report demonstrated there were sufficient wheelchair accessible vehicles, but that there was a lack of drivers willing to pick these customers up. She felt this was an issue that needed to be addressed by the taxi trade.
- 13.9 Councillor Kitcat asked whether the public consultation asked whether the public would welcome taxi marshalling as a separate issue to whether they would be willing to pay for taxi marshalling. Ms Eccles replied that a number of options were offered when the question about safety in the city was posed, including Taxi marshalling.

- 13.10 Councillor Pidgeon asked why no thought had been given in the survey to those of differing abilities, including blind people. He stated that some wheelchair accessible vehicles were extremely difficult to access for blind people and felt there was a need to look into this.
- 13.11 Councillor Lepper noted that some people surveyed felt unsafe when using a taxi and asked for further details on this. She noted that many drivers felt unsafe when working at night and would like CCTV available in their taxis. Ms Eccles stated that both groups were asked about feelings of safety for the survey, and she noted that drivers felt especially unsafe in certain parts of the city.
- 13.12 Councillor Simson felt there was very little unmet demand for Hackney Carriages in the city. She felt that every vehicle should be able to accommodate different needs in some way but did not feel there was a sufficient lack of these vehicles in the Hackney Trade. She felt that the issue with wheelchair accessible vehicles was primarily a Private Hire one, as many disabled people relied on booking private hire vehicles. She believed incentives were needed to encourage the Private Hire trade to make more disabled accessible vehicles available. The Chairman noted that this had been put to the Taxi Forum, but had been a difficult issue to discuss.
- 13.13 The Chairman gave Mr Andy Cheeseman from City Cabs permission to address the Committee meeting. Mr Cheeseman stated that the Fiat Doblo could be bought for under £10,000 and this was an option considered by the trade, however there were perceived safety issues of rear loading. The Hackney Carriage Officer, Mr Seymour stated that there were concerns about driver and passenger safety with rear loading vehicles being used and noted that the crumple zone for the vehicle was also situated in the rear.
- 13.14 Ms De Moulins from the Brighton & Hove Disabled Federation was given permission to address the Committee meeting. She stated that there was an evident need for better access to disabled accessible vehicles as it was not fair that disabled people had to wait nearly four times as long for a taxi to arrive.
- 13.15 Councillor Wrighton felt that more encouragement needed to be given to female drivers to increase their numbers in the trade and Ms Eccles supported this view, stating that through consultation between 50-60 per cent of people wanted a female driver.
- 13.16 Councillor Wrighton raised issues around safety at night and asked if all taxi drivers were CRB checked. Mr Seymour replied that they were checked every three years.
- 13.17 Councillor Harmer-Strange noted there had been issues around training of drivers whose standards of English were not high. Mr Seymour replied that new applicants were now assessed on literacy to ensure they could take the BTec training appropriately.
- 13.18 Councillor Hawkes felt that the Fiat Doblo needed to be considered seriously as an option for drivers. She stated that rear loading vehicles were already used safely by social services and there was a need to look at how access to disabled vehicles could be improved. The Authority needed to consider how the private hire trade could be encouraged to provide more disabled accessible vehicles and she noted that elderly or frail people often preferred more accessible vehicles.

- 13.19 Councillor Kitcat asked if the English literacy training only applied to new applicants to the trade and Mr Seymour confirmed this.
- 13.20 Councillor Kitcat asked why there were issues around the taxi lights and Mr Seymour stated that the taxi light on the top of the vehicle was linked to the metre. At times the light was on (i.e. indicating the taxi was available to hire), but the driver would be on route to a job and so technically was not available. This had caused confusion and frustration for some members of the public. He suggested a manual switch to turn the light off to resolve this problem.
- 13.21 Councillor Watkins noted that there were many serious issues around accessibility of vehicles and also around the training of drivers in providing a good service. He felt that once a passenger was accepted into a taxi, it was the drivers' responsibility to keep them safe in whatever way was necessary. He was concerned that there was no requirement for repeat training once a driver had their licence and he felt the Council should do more to consider the issues around provisions for disable people. Ms Eccles stated that conditions could not be placed on a taxi licence, and so there could be no requirement for retraining of taxi drivers once their licence was approved.
- 13.22 Mr John Oram, Chairman of Streamline Taxis was given permission to address the Committee meeting. He stated that he understood there were issues around the provision of wheelchair accessible vehicles but felt that the main problems were associated with the private hire trade. He stated that rear loading vehicles were significantly cheaper for the trade to finance and wanted this option looked into in more detail.
- 13.23 Councillor West believed that the policy of limiting the numbers of licensed plated issued should continue. He believed there was support for this among the Hackney Carriage trade and it would maintain the quality of service enjoyed by the city and allow the Council to promote more accessibility. He felt there was a clear need for more training for drivers however, and felt that better customer service for customers with disabilities was needed. The loss of ranks across the city was worrying and more joined up thinking was needed on this, as the taxi service supported the night time economy and sustainable transport planning for the city. He felt there was clearly an unmet demand for disabled people and waiting times were an issue, but the problems lay mainly with the private hire trade.

Councillor West proposed an alternative recommendation, seconded by Councillor Watkins as follows:

1. That officers prepare a report to the Licensing Committee on:
 - a. All new licensed Private Hire vehicles being required by condition to be able to carry a wheelchair using customer whilst those customers were sat in their chair;
 - b. All large Hackney Carriage firms be required to meet a percentage quota of disabled accessible vehicles on their books.

2. That the Council increases the number of Hackney carriage vehicles by 5 annually.

13.24 A vote was taken on the alternative recommendation and failed.

13.25 Councillor Simson stated that she agreed with much of what Councillor West had said, but could not support increasing the number of plates by 5 a year. She stated that there were many taxi drivers currently with not enough work to do and felt that if numbers were increased too much it would create more problems for the authority. She added that current licence holders would also hire other people to use their cars, increasing the number of taxi drivers available on the roads.

13.26 Councillor Lepper stated that she had also given much thought to the number of plates the Committee should increase by, and had considered not increasing the number at all for this year. She felt the taxi service was very efficient. She used taxis regularly and did not find she had to wait long periods. The report found no unmet demand and therefore she believed that only a minor increase in plate numbers could be justified, and she would not be able to support an increase of 5. She recognised the issues around disabled accessible vehicles and believed that any increase in plate numbers should be linked to providing more accessible vehicles on the circuit.

13.27 Councillor Hawkes stated she considered not increasing the plate numbers, but was keen to see more disabled accessible vehicles on the circuit, and therefore would support a small increase in these types of vehicles.

13.28 The Chairman put the recommendations in the report to the vote in the order they were listed in the report.

13.29 **RESOLVED** – To increase the number of hackney carriage vehicle licences issued by the Council by a reduced number of 2 annually (or such number as the committee advises), such licences to be issued in May each year commencing in May 2010.

14. HACKNEY CARRIAGES/PRIVATE HIRE TRADE ETHNICITY MONITORING

14.1 The Committee considered a report from the Director of Environment on Hackney Carriage/Private Hire Trade Ethnicity Monitoring (for copy see minute book).

14.2 Mr Nichols summarised the report and stated that ethnicity monitoring was undertaken to ensure that the waiting list is operated in a fair and transparent way as recommended by the Equality and Human Rights Commission.

14.3 **RESOLVED** – That the ethnic monitoring results are noted.

15. STREET TRADING POLICY

15.1 The Committee considered a report from the Director of Environment regarding the Street Trading Policy (for a copy see minute book).

- 15.2 The Licensing Manager, Ms Cranford, began by stating that the updated policy made conditions for street trading more transparent and enforceable. At the April 2009 meeting of the Licensing Committee officers were asked to undertake further consultation. Dorothy Stringer School had asked for an exclusion zone in June 2004 but this had not been approved as there was a concern it could affect the livelihoods of individuals.
- 15.3 Councillor Kitcat asked why the 100 metre restrictions on street traders selling similar items had been removed. Ms Cranford replied that this was no longer relevant as the types of items street traders sold could now also be bought in shops and there were no exclusions on this.
- 15.4 Councillor Kitcat stated that he could not support the suggestion by Dorothy Springer to impose exclusion zones on street traders around schools. He added that healthy eating was a good idea to promote but believed that this could best be achieved via education and not licensing powers to exclude where street traders could trade. He was concerned that this might have unintended consequences on other traders if pursued. Ms Cranford stated that the Health Eating Team at the Council could discuss options with street traders where appropriate.
- 15.5 Councillor Older asked whether Chestnut sellers were restricted to certain areas and whether a trader needed a licence to sell goods in front of their shop. Mr Nichols replied that the consent streets were the only places where this activity was allowed. Front of shops were exempt from street trading policies as they were technically deemed a part of the shop and the authority would have to prove beyond all reasonable doubt that the trader was trading illegally.
- 15.6 Councillor Simson asked about the waiting list for trading sites and Mr Nichols replied that it was very static. Most people on the list were waiting for specific sites to become available, but it was difficult for officers to assess which sites would be desirable as this was usually down to personal circumstances. There was a natural wastage of sites as they were not taken up by those on the waiting list.
- 15.7 Councillor Lepper stated that Dorothy Stringer School owned Stringer Way and it would be their responsibility to enforce any internal school policies. Mr Nichols agreed that this was correct.
- 15.8 **RESOLVED** – That the street trading policy as set out in appendix 1 is agreed.

16. POLICING AND CRIME BILL - SEX ESTABLISHMENTS CONSULTATION

- 16.1 The Committee considered a report from the Director of Environment regarding the Policing and Crime Bill – Sex Establishment Consultation (for a copy see minute book).
- 16.2 Mr Nichols began by stating that controls on this trade had been discussed by the Committee in the past and that if the recommendations were approved this could result in current licences having to reapply under the new regime.
- 16.3 Councillor Lepper stated that this Bill was excellent and a triumph for local authorities. She paid tribute to the work done by the Fawcett Society and Object to ensure that sex

workers received greater protection. Councillor Lepper expressed concern over the number of exemptions allowed for public houses in a year but noted the ministerial rights to remove this if exploited by the industry. She felt that the existing licences should have to reapply under the new regime, but would not like to see them criminalised in the interim. Mr Nichols stated that if the existing licence was refused under the new regime, the sex establishment would then be criminalised.

- 16.4 Councillor Wrighton welcomed the proposals to control these establishments and she had existing problems within her ward. She believed that consideration needed to be given to the impact an establishment had in an area and the prominence of these sites. She felt that residents' safety needed to be given due weight. Mr Nichols replied that sex establishments would be considered under the same regime as sex shops and so Members would be able to consider appropriate areas for these establishments. External appearance and appropriateness could also be considered and he noted that the policy would go to Full Council for approval.
- 16.5 Councillor Simson expressed concern over the current operation of sex shops and felt that a lot had been approved in inappropriate areas, which had not come to a licensing panel. She felt that many were no longer discreet and the products they advertised were explicit, and there was a need to gain control of this. Mr Nichols replied that the definition of a sex shop was a shop selling sex items to a significant degree. Significant degree was not defined in the law however and many shops operated on the margins of what was allowable. If there were complaints about particular shops, officers would investigate however.
- 16.6 Councillor Watkins asked if licence holders had a right of appeal if their licence was refused and Mr Nichols replied that if this was the case, it would most likely be to the Magistrates Court.
- 16.7 **RESOLVED –**
1. That the Committee responds to the questions in the consultation as follows:
 - a) The new regime should apply to existing operators but the licensing authority is concerned that existing operators may have an expectation that their current business should not be criminalised.
 - b) The timetable is appropriate.
 - c) The proposed approach for existing operators is acceptable.
 - d) Any conditions related to relevant entertainment should be passed to the new Sex Encounter Establishment licence.
 - e) Current sex encounter provision created by local London legislation is inapplicable outside London.
 - f) LLA does not apply in the city.
 - g) There are no objections to the commencement dates.

- h) The impact assessment appears reasonable.
- 2. That regulation of sex encounter establishments continues to be supported by Licensing Committee.
- 3. That Licensing Panels continue to be guided by the statement of licensing policy including the imposition of conditions applicable to lap dancing clubs in determining applications until overtaken by the Policing & Licensing Bill.
- 4. That the Committee recommends to Council to adopt provisions relating to sex encounter venues, if the Policing and Crime Bill is enacted.

17. ITEMS TO GO FORWARD TO COUNCIL

The meeting concluded at 17.00 hours.

Signed

Chairman

Dated this

day of

