

LICENSING AND REGULATORY COMMITTEE
MEETING HELD AT THE TOWN HALL, BOOTLE
ON 3 JUNE 2013

PRESENT: Councillor Kerrigan (in the Chair)
Councillors Ball, Carr, K. Cluskey, Dorgan, Hands,
Keith, Kermode, Preece and Rimmer

1. CHAIR'S WELCOME AND INTRODUCTION

The Chair opened the meeting by extending a welcome to everyone, and in particular, Councillors K Cluskey and Hands, who had returned to the Committee, and in her absence, Councillor Welsh, who was new to the Licensing and Regulatory Committee, but had submitted apologies.

The Chair also extended thanks to Councillors Robertson and Roche who had served on the Committee in 2012/13 but were no longer members.

Particular thanks were extended to Councillor Blackburn who had now left the Committee having served on it for 16 years, since October 1997. Councillor Kerrigan indicated that his knowledge and expertise in Licensing and Regulatory matters would be sadly missed.

RESOLVED:

That the Chair's comments above be noted and endorsed.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bradshaw, Gustafson, Mahon, Robinson and Welsh.

3. DECLARATIONS OF INTEREST

No declarations of interest were received.

4. MINUTES

RESOLVED:

That the Minutes of the meeting held on 11 March 2013, be confirmed as a correct record.

5. RECEIPT OF PETITIONS

The following petitions had been received.

5.1 Petition against the Issue of Fixed Penalty Notices to Hackney Carriage and Private Hire Drivers

The Committee considered a petition which had been submitted by Mr Richard Jarman, a Trade Representative on the Council's Hackney Carriage and Private Hire Trade Working Group, on behalf of hackney drivers in Southport and Bootle / Crosby.

The petition had been submitted in accordance with the Council's Petition Scheme and contained 32 signatures by Sefton residents.

The petition related to Agenda Item 4 – Review of the Hackney Carriage and Private Hire Licensing Conditions Handbook, in respect of Fixed Penalties and Other Matters.

A copy of the following supporting statement submitted with the petition had been included in the agenda for the meeting:

“That fixed penalties which are not, or do not, result in criminal record keeping, (for example a PCN or “litter” ticket or breach of regulations governing “no smoking signs”) need not be reported. [Miscellaneous matters such as the degree of responsibility acceptable in respect of lost property/enforcing no smoking provisions by drivers *may* be resolved with officers] “.

Mr Richard Jarman, Trade Representative on the Hackney Carriage and Private Hire Working Group, addressed the Committee and indicated that he was pleased to state that the matters raised in the petition had been resolved prior to the meeting in consultation with Mr Toohey, Principal Trading Standards Officer.

The Trading Standards and Licensing Manager confirmed that he was satisfied that the issues raised in the petition had been resolved.

Mr Jarman concluded by thanking Mr Toohey for his help in this matter.

RESOLVED: That

- (1) Mr Jarman be thanked for his submission;
- (2) the details of the petition and Mr Jarman's comments thereon, be noted;
- (3) the Trading Standards and Licensing Manager's confirmation that he was satisfied that the matters raised in the petition had now been resolved, be noted; and
- (4) the Trading Standards and Licensing Manager be authorised to make appropriate amendments to the Hackney Carriage and Private Hire Licensing Handbook.

5.2 Petition relating to Advertisements on Hackney Carriage and Private Hire Vehicles

The Committee considered a petition which had been submitted by Mr Richard Jarman, a Trade Representative on the Council's Hackney Carriage and Private Hire Trade Working Group, on behalf of hackney drivers in Southport and Bootle / Crosby.

The petition had been submitted in accordance with the Council's Petition Scheme and contained 33 signatures by Sefton residents.

The petition related to Agenda Item 4 on the Agenda - Review of the Hackney Carriage and Private Hire Licensing Conditions Handbook in respect of Advertisements on Hackney Carriage and Private Hire Vehicles.

A copy of the following supporting statement submitted with the petition had been included in the agenda for the meeting:

- "The proposed new handbook should provide that there should be no full livery advertisements on PHV vehicles.
- That "full livery" advertisements should only be permitted on Wheelchair Accessible Vehicles licensed as Hackney Carriages.
- That advertisements for PHV / hackney carriage firms should be limited in size as currently provided and that they should continue to be approved and controlled by the County of Merseyside Act".

Mr Richard Jarman, Trade Representative on the Hackney Carriage and Private Hire Working Group, addressed the Committee and indicated that he was pleased to say that the matters raised in the petition had been resolved prior to the meeting, in consultation with Mr Toohey, Principal Trading Standards Officer.

The Trading Standards and Licensing Manager confirmed that he was satisfied that the issues raised in the petition had been resolved.

Mr Jarman concluded by thanking Mr Toohey for his help in this matter.

RESOLVED: That

- (1) Mr Jarman be thanked for his submission;
- (2) the details of the petition and Mr Jarman's comments thereon, be noted;
- (3) the Trading Standards and Licensing Manager's confirmation that he was satisfied that the matters raised in the petition had now been resolved, be noted; and

- (4) the Trading Standards and Licensing Manager be authorised to make appropriate amendments to the Hackney Carriage and Private Hire Licensing Handbook.

6. REVIEW OF THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING CONDITIONS HANDBOOK

The Committee considered the report of the Director of Built Environment, advising of the outcome of the review of the Hackney Carriage and Private Hire Licensing Conditions and handbook and seeking endorsement of the proposed changes to those conditions.

The report indicated that changes to policy, legislation and Government guidance since the current handbook was adopted on 1 December 2008 had meant that the handbook required further updating.

As such, a review had been conducted by Mr Toohey, Principal Trading Standards Officer which had involved a critical assessment of the validity of the existing pre-conditions and conditions.

Mr Naisbitt, Trading Standards and Licensing Manager indicated that the review had involved an intense period of consultation with the hackney carriage and private hire trades through the Council's established trade working groups.

Mr Toohey, Principal Trading Standards Officer, presented the report, explaining that the review had been carried out in an open and transparent manner with information and ideas being drawn from the Trades at the scheduled Trade liaison meetings and at dedicated 'sub group' meetings. The 'sub group' meetings had been arranged specifically to discuss potentially contentious policy issues and ensure statutory or customary requirements to consult with affected parties had been complied with.

The report indicated that the review highlighted that:

- the handbook Version 1.1 was out of date;
- minor inconsistencies of policy across licence types;
- confused lines of responsibility;
- ambiguities within the 'Convictions' policy;
- overuse of complicated language;
- unnecessary onerous conditions; and
- the need for a review of the Council's Compliance Testing regime.

Paragraph 3 of the report outlined the following key changes:

- Format of the Document - the policy and conditions were now presented in an indexed user friendly way with key topics

detailed in thematic annexes, for example the Convictions Policy.

- Enhancement of the Client Charter, defining the standards of service clients should expect.
- Review of the Licensing Requirements in consultation with the trade had removed ambiguity and points of contention, for example the meaning of 'sufficient identifiers' (Part 4 (h)).
- Explanatory notes had been added where it was considered appropriate to explain the Council's interpretation of the legislation and as a guide to the likely enforcement action that may be taken for breaches of legislation or conditions, for example 'Part 12'.

The Handbook consolidated policy changes made since October 2008.

The new "Statement of Policy and Guidelines Relating to the Relevance of Convictions" was a significant policy change which introduced a more detailed and rigid policy in relation to sex offences and offences against the person. This was consistent with the other Merseyside Taxi Licensing Authorities.

The report concluded that it was proposed that policy and conditions of licence should further be reviewed following the publication of the Law Commission Review of the hackney carriage and private hire legislation and the publication of the Government's proposals/Guidance on this matter.

The Principal Trading Standards Officer reminded Members of the 2 petitions relating to the issue of Fixed Penalty Notices and Advertisements on Hackney Carriage and Private Hire Vehicles, submitted by Mr Jarman, as referred to in Minute Nos 5.1 and 5.2 above and the Committee's agreement that the appropriate amendments be incorporated in the Handbook.

The Trading Standards and Licensing Manager concluded by indicating that since publication of the report, the One Stop Shop Manager had requested that the proposed implementation date for the Handbook, be postponed until 1 August 2013, to provide enough time for the training of One Stop Shop staff.

RESOLVED: That

- (1) the results of the review of the Hackney Carriage and Private Hire Licensing Conditions be noted;
- (2) the agreement to incorporate changes to the handbook following

consultation on the petitions submitted by Mr Jarman, indicated in Minute Nos. 5.1 and 5.2 above, be confirmed;

- (3) the adoption of the revised handbook and the provisions contained therein as the Hackney Carriage and Private Hire Licensing Scheme for Sefton be endorsed;
- (4) the date for implementation of the revised handbook be 1 August 2013, to enable the One Stop Shop to provide appropriate staff training; and
- (5) Mr Toohey be thanked and commended for his hard work in carrying out the Review of the Hackney Carriage and Private Hire Licensing Conditions Handbook in consultation with the taxi trade representatives over the past 9 months.

7. REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES - AN UPDATE

Further to Minute No. 14 of 30 July 2012, the Committee considered the report of the Director of Built Environment, advising of the Government and Law Commission responses to the consultation about reforming the law of Taxi and Private Hire Services.

The Trading Standards and Licensing Manager presented the report, reminding Members that in July 2011, the Law Commission had announced that it had been asked to review the law relating to the regulation of taxis and private hire vehicles, with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing burdens on business and increasing economic efficiency; that the consultation had attracted over 3,000 written responses from a wide range of stakeholders and that both the Government and Law Commission had published statements in response to the consultation.

Sections 2 and 3 of the report summarised the key points of the Government and Law Commission's statements.

The report concluded by indicating that there was currently disagreement between the Government and Law Commission on a number of key issues but in particular, quantity controls of hackney carriage vehicles and enforcement powers, and that in order to complete its task the Law Commission would have to take into account a wide range of views and draw up a firm plan of action which would require a careful balancing act. The final report of the Law Commission and draft bill was due to be published at the end of 2013.

The Trading Standards and Licensing Manager concluded by answering questions raised by Members.

RESOLVED: That

- (1) the report on the Government and Law Commission responses to the consultation about reforming the Law of Taxi and Private Hire Services be noted; and
- (2) the Director of Built Environment be requested to submit a further update report following publication of the Law Commission Report later on in the year.

8. TAXI LICENSING PERFORMANCE REPORT 2012/13

Further to Minute No. 9 of 28 May 2012, the Committee considered the report of the Director of Built Environment updating on the Hackney Carriage and Private Hire Licensing facilities provided by Sefton Plus and the enforcement activities of the Taxi Licensing Team during the period 1 April 2012 to 31 March 2013.

The Trading Standards and Licensing Manager apologised to Members for an error in Paragraph 4 of the report and stated that the dates should read '1 April 2012 to 31 March 2013', not the previous year.

The report provided comparative statistics in respect of taxi licensing and Knowledge Test appointments at Bootle and Southport One stop Shops and compared the number of license applications processed compared to previous years. Paragraph 4 of the report provided a summary of service performance for the period.

The Trading Standards and Licensing Manager indicated that the appointment system in both One Stop Shops had available capacity, which, if used, could reduce the number of 'drop-ins' and waiting time, not just for the Trade but for other Council clients. However, he was pleased to report that the number of 'wasted' hours had been reduced by 31% compared with the same period in 2011/12 and that this had been achieved by operating a waiting list for Knowledge Test applicants and offering 'no show' places to applicants who were prepared to wait and take an available space at short notice.

Section 5 of the report also provided details of the Taxi Licensing Team's Enforcement performance and prosecution statistics for the period.

The Trading Standards and Licensing Manager concluded by answering questions raised by Members.

RESOLVED: That

- (1) the Taxi Licensing Performance Report for 2012/13 be noted;
- (2) The error in Paragraph 4 stating that the dates should read '1 April 2012 to 31 March 2013', not the previous year, be noted;

- (3) Taxi Licensing Performance Reports be submitted for the Committee's consideration on a bi-annual basis; and
- (4) Staff at Sefton Plus and the Taxi Licensing Enforcement Team be commended for their achievements over the past year.

9. INTRODUCTION OF A BYELAW - COSMETIC TREATMENTS

The Committee considered the report of the Director of Built Environment on the Council's adoption of a new model byelaw governing acupuncture, tattooing, semi permanent skin colouring, cosmetic piercing and electrolysis and the consequent revocation of the Council's existing byelaws covering this activity.

The report indicated that to ensure that the new byelaw could be legally enacted, the Council had to ensure that it had adopted the latest technical and legal definitions of the various cosmetic treatments and as such, the report proposed a technical resolution to demonstrate that the provisions of Sections 14 to 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 applied within the Borough of Sefton.

The report outlined the procedural steps for the adoption of the new model byelaw, which was to be called 'Byelaws for Acupuncture, Tattooing, Semi Permanent Skin Colouring, Cosmetic Piercing and Electrolysis'. One of the steps outlined in the report was the requirement for Council's approval of the byelaws which would be considered at its meeting on 27 June 2013. The text for the proposed new byelaw was set out in Appendix B to the report.

Mr T Wood, Environmental Health (Commercial) Manager presented the report and answered questions thereon.

RESOLVED: That

- (1) the report be noted; and
- (2) the recommendation for the Council's adoption of the proposed new byelaw set out in Annex B to the report, that the provisions of Sections 14 to 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 apply within the Borough of Sefton, be endorsed.

10. LICENSING CONTROLS RELATING TO STREET TRADING AND PEDLARS

Further to Minute No. 37 of 11 March 2013, the Committee considered the report of the Director of Built Environment which provided an overview of the law relating to street trading and pedlars as requested.

The report highlighted the differences between street traders and pedlars, namely, that street trading was primarily a matter for a local authority, requiring adoption of the provisions contained in the legislation; whilst street peddling was primarily a matter for the police.

The report indicated that the street trading provisions had never been formally adopted within Sefton and the Licensing Unit received few or no complaints regarding street trading or peddling. However, should the Council resolve to adopt legislation in respect of street trading, then the fee revenue would be unlikely to cover the cost of the administration and enforcement of the scheme.

The Trading Standards and Licensing Manager presented the report and answered questions thereon.

Arising from discussion it was proposed that a cost analysis study be undertaken into the feasibility of the Council's adoption of street trading provisions to help deter rogue traders, such as ticket touts at the Grand National, etc.

RESOLVED: That

- (1) the report be noted; and
- (2) the Director of Built Environment be requested to undertake and submit a report on a cost benefit analysis study into the feasibility of the Council's adoption of street trading provisions to help deter rogue traders in the Borough, for consideration at the next meeting on 23 September 2013.

11. PROVISIONS CONTAINED WITHIN THE SCRAP METAL DEALERS ACT 2013

Further to Minute No. 21 of 24 September 2013, Committee considered the report of the Director of Built Environment on the provisions contained within the Scrap Metal Dealers Act 2013.

Section 2 of the report provided a summary of the Act.

The Trading Standards and Licensing Manager explained that the Act would be effective from 1 October 2013, was being brought into force to help address scrap metal theft / fraud and that enforcement duties would fall to both the Police and local authorities.

RESOLVED: That

- (1) the report be noted; and
- (2) update reports be provided once further Regulations are issued by the Secretary of State.

12. LOCAL LICENSING PERFORMANCE REPORT 2012/13

Further to Minute No. 29 of 19 November 2012, the Committee considered the report of the Director of Built Environment on Licensing performance for the period 1 October 2012 to 31 March 2013 against the 2012/13 Local Licensing Service Plan which was submitted on a biannual basis.

The report provided details of the Unit's programmed inspections under the Licensing Act 2003, details of service requests received, the Council's licensing leafleting scheme, applications accepted for process, details of reviews held and general licensing details.

As requested on 19 November 2012, the report also provided details of LA03 Licenses surrendered, indicating that for the period 1 October 2012 to 31 March 2013, 9 Licenses had been surrendered, which was the same number as that for the equivalent period for 2011/2012 and that the full 12 months figure was 23 compared with 24 for 2011/12, a decrease of 4%.

The Trading Standards and Licensing Manager presented the report, referring in particular to paragraph 7.8, indicating that the sickness referred to therein had now been resolved.

RESOLVED: That

- (1) the report be noted; and
- (2) the Director of Built Environment be requested to submit further reports on a biannual basis.

13. DETERMINATIONS MADE UNDER THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005: PERIOD COVERING 9 FEBRUARY 2013 TO 17 MAY 2013

The Committee considered the report of the Director of Built Environment updating on applications made under the Licensing Act, 2003 and the Gambling Act 2005, which had been determined by Licensing Officers.

The report indicated that Sefton Council's Statement of Licensing Policy (issued under the Licensing Act 2003) and the Statement of Gambling Policy (issued under the Gambling Act 2005), both followed the recommended delegation of functions contained within the Guidance issued under Section 182 of the Licensing Act 2003 and the Guidance issued under Section 25 of the Gambling Act 2005 and that where there were no relevant representations to applications, then these matters would be dealt with by Officers in order to speed matters through the system. The Guidance also recommended that where powers had been delegated, the Committee would receive regular reports on decisions made by Officers in order to maintain an overview of the general licensing situation.

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The report indicated that during the period 9 February 2013 to 17 May 2013, the Director of Built Environment had received and determined the following numbers of applications:

Under the Licensing Act 2003:

Under the Gambling Act 2005:

Details of the determinations were indicated in Annexes 1 and 2 of the report.

RESOLVED:

That the report and the fact that further update reports would be submitted as necessary be noted.