

Licensing Committee – 26 August 2015

Present: Councillors Mrs Adkins, Brown, Davies, Miss Durdan, Mrs Edwards, Gage, Hunt, James, R Lees, Morrell, Nicholls and Sully.

Officers: Ian Carter (Licensing Manager), Alison Evens (Licensing Officer), Roy Pinney (Legal Services Manager), Leigh-Ann Fumagalli (Licensing Observer) and Michelle Brooks (Democratic Services Officer)

Others: Councillors Berry and Mrs Warmington

(The meeting commenced at 6.15 pm)

18. Appointment of Chairman

Resolved that Councillor Miss Durdan be appointed Chairman of the Licensing Committee for the remainder of the Municipal Year.

19. Appointment of Vice-Chairman

Resolved that Councillor James be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

20. Apologies/Substitution

Apologies: Councillors Mrs Lees, Ross and Miss Smith

Substitutions: Councillor Morrell for Councillor Ross
Councillor R Lees for Councillor Mrs Lees

21. Minutes

The minutes of the meeting of the Licensing Committee held on 4 March 2015 were taken as read and were signed.

22. Licensing Update Report

Considered report previously circulated, which provided an update on the activities of the Council's Licensing Team, changes to legislation, current consultations and other general licensing matters.

A summary of activity relating to the Licensing Act 2003 was as follows:-

- Licenses Issued; 405 Premises Licences, 1286 Personal Licences and 3052 Temporary Event Notices (TEN's) in force on 30 July 2015.
- There had been no Licensing Sub-Committee Hearings held in the past quarter
- There had been an increase in Gambling Act applications on this time last year with two applications in 2014.

- Street Trading and s115e Consents -The Council had received 20 applications so far this year.
- Total number of Licenses under the Gambling Act 2005 was 227.
- The Street Collection Permits for this period was 286.

A summary of activities relating to Licenses in force was submitted as follows:-

- There had been four requests for service and three of those requests related to contraventions of taxi and private hire legislation, with the fourth being a complaint about overzealous face to face fundraisers.
- There had been no meetings of the Licensing Sub Committee between April and June, despite there being two separate Licensing Act 2003 applications which drew representations during this time.
- There had been two meetings of the Taxi Forum since the last Committee. Members of the forum had been invited to write down their comments regarding the current Licensing regime and these were then recorded and analysed by the team.

Changes to legislation

On 6 April 2015 the Legislative Reform (Entertainment Licensing) Order 2014 came into effect and introduced further exemptions to the requirement to obtain an authorisation for the provision of entertainment under the Licensing Act 2003.

Work was progressing on the production of a guidance note for members of the public and elected Members alike on the types of entertainment that did and did not require a licence.

Also submitted comments from the Taxi Forum regarding proposed amendments and the inclusion of new Policies.

During the discussion of this item, Members made comments and statements and asked questions which included:- (Responses were shown in italics)

- What was meant by 'Check Licenses on Gates'?
This usually related to checking Taxi Licenses at places such as airports. On a more local basis, the Licensing Officers did a smaller scale but similar operation outside Butlins in Minehead.
- Could officers expand on the current resource issue and what could be done to improve them?
This issue was being addressed in the short term through the employment of agency staff and, in the longer term, looking towards employing additional staff if a case was accepted that they were required. The lack of resources had highlighted concerns relating to the affect the delay in issuing taxi licenses could have on a person's ability to work. However, there were ways – including the issue of a Letter of Authorisation – which could be implemented to provide a temporary solution whilst the new license was fully processed.
- How representative of the Trade were the taxi driver's comments? Was it fairly well spread across or was it limited to large operators?
The comments were collected from the first meeting where 20 members of the trade attended so these comments had come from a cross section throughout the trade.

If the taxi drivers were agreeable, maybe the Council could consider employing someone simply to administer taxis related issues with the cost reflected in the Taxi Licensing Fee?

- Could the Council's Customer Contact Centre assist Licensing as the first point of contact?

Licensing was already in discussion with the Contact Centre about this.

- What was the current situation relating to the possibility of introducing a cap on the numbers of vehicles or licenses?

Work on this was at an early stage as the current legislation did not support such action. Care therefore had to be taken not to propose something that would not fail under a robust challenge. Further discussion of this topic was likely to be undertaken through the Taxi Forum.

- All Members of the Committee were invited to attend the next meeting of the Taxi Forum on Wednesday, 16 September 2015.

Resolved that the report to be noted.

23. Licensing Regime for Hackney Carriage/Private Hire Drivers and Private Hire Operators

Considered report previously circulated, concerning the introduction of new policies regarding out of area applicants and cross-border hiring.

The overarching aim of Taxi Licensing was public safety. Through the implementation of its policies the Council (as Licensing Authority) sought to ensure that members of the public travelled in safety in well maintained vehicles driven by competent drivers, as well as ensuring the provision of a fair and reasonable service for the licensed trade.

Under the legislation, a Licensing Authority could not take action against vehicles operating within its area that were licensed elsewhere, unless criminal activity had taken place. This left the authority powerless to intervene if the driver contravened any licence condition or provided a poor quality of service to passengers

Recently there had been a marked increase in the number of applications from applicants who resided outside of the district and although their motives were examined through the Knowledge and Suitability Interview, evidence received from the licensed trade and Bristol City Council had shown that many of these applicants were operating entirely or predominantly away from Taunton Deane. This was a major area of concern for the Taxi Forum.

Although not an unlawful activity, there were potentially undesirable consequences of taxis and drivers licensed by the Council operating remotely from it, as the Council had to supervise these drivers and vehicles from a distance and faced real difficulty in keeping them under observation.

After Consultation, it was felt appropriate that when considering an application for the grant or renewal of a Hackney Carriage and Private Hire Vehicle Drivers Licence and applications for Hackney Carriage Vehicle Licences, from applicants who resided outside of the Council's administrative boundaries, Taunton Deane would require such evidence as it reasonably considered appropriate, to make an assessment of the intention to work or proof of operating since the grant of the licence, entirely or predominately within the Council's administrative area.

Although these policy changes would have a further impact on Licensing Team and would increase the cost to those wishing to become licensed, they would ensure that genuine applicants retained the opportunity to be licensed, where appropriate, while all reasonable steps were taken to protect the public.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses were shown in italics)

- How would the Council enforce knowing where the taxi was within Taunton Deane unless it had GPS tracking system? How did the Council envisage undertaking such a process?
Following consultation with other Local Authorities, there were various means of obtaining information relating to journeys and the monetary value of work that started and finished within Taunton Deane and that which did not. Although this relied heavily on submission of information from the vehicle proprietor or licensed driver, the inability to supply this evidence would mean the Council not granting the licence.
- How could the Council, compel a particular action when there was case law which might suggest differently?
Officers and this Committee had the option of proceeding in a number of ways. It was however recommended that this Council should proceed with the proposals specifically identified within the report which would not be in conflict with the case law referred to. Taunton Deane would effectively be exercising its discretion to proceed in a particular way.
- In relation to people who had licenses already from outside of the area, when they came up for renewal, what would the process be?
At the point of renewal any driver residing outside of the district would be expected to supply evidence that they were working, or had worked entirely and predominately in the district.
- Was the Council going to notify all registered License holders to warn them in advance of this policy change?
All interested parties and stakeholders would be informed.

Resolved that:-

1. The adoption of a new policy be approved which would provide the Council with the means to refuse applications made by those persons residing (at the time of submission of their application) outside of the administrative boundaries of the Council, unless the applicant could prove to the satisfaction of the Authority, that they genuinely intended to work or do work entirely or predominately within the Taunton Deane area..
2. The adoption of a further new policy be approved whereby if the Council believed that a licensed driver was not working entirely or predominately within the Taunton Deane area then it may suspend or revoke that person's Hackney Carriage or Private Hire Vehicle Driver's Licence together with any vehicle licence associated with that individual.

24. Knowledge and Suitability for Hackney Carriage/Private Hire Drivers Applicants

Considered report previously circulated, concerning increasing the breadth and depth of knowledge required to obtain a Hackney Carriage/Private Hire Drivers Licence.

Knowledge and suitability interviews were introduced to replace the previous knowledge test in June 2010. At the time, it was felt that the increased use of satellite navigation systems meant that it was unnecessary for drivers to take the route test. The Committee had therefore resolved that the test should be revised to include questions from the Hackney Carriage and Private Hire Drivers Handbook.

The interviews were the final stage in the consideration of the fit and proper test applied to all those seeking a drivers licence from the Council. It was a chance for the officer to meet the applicant face to face and establish, amongst other things, their knowledge of current policy and legislation.

Reported that anecdotal evidence from the trade and the increased numbers of applicants who did not reside within the local area or operate taxis as their main employment presented a risk to the levels of service provision to the travelling public.

To mitigate that risk it was considered necessary to expand the knowledge and suitability interviews so that new applicants were required to demonstrate knowledge of the local area, local and regional points of importance by identifying given locations on a map and being able to identify directions of travel to destinations outside of the district.

It was also considered necessary that questions should be introduced for applicants to demonstrate a suitable ability to calculate change from tendered amounts.

The increase in the duration of the knowledge and suitability interviews would have an impact on the resources of the Licensing Team and would increase the cost to those wishing to become licensed. However these increases could be balanced by the potential increased standards of drivers and the benefits to services users.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses were shown in italics)

- Could clarification be provided as to what the Knowledge and Suitability Interview comprised?
It was mostly a verbal questionnaire but officers also required the applicant to identify specific points on a map. The discussion that took place was guided by an instruction sheet which had to be completed by the Licensing Officer. This was then presented to the Licensing Manager for his recommendation as to the issue of the licence. The other advantage to questioning applicants verbally, allowed officers to test comprehension of the English language at the same time.
- Did an applicant not have to fill out any forms?
Prior to the discussion interview, an applicant had to make an application to the Disclosure and Barring Service in order to prove they were fit and proper. The applicant was required to make an appointment so officers could check that they had filled out the appropriate forms correctly themselves.

- Were there issues with comprehension of the English language with some applicants?
The comprehension factor was a consideration and if the applicant could not comprehend what they were being asked by the officer, they would not be considered.
- Was it right that taxi drivers were obliged to take guide dogs into their taxis?
Legislation required taxi drivers to transport somebody with assistance dog, unless under the Equality Act a medical exemption had been issued to the driver. Taunton Deane did have some drivers that had this exemption so could refuse to take assistance dogs.

Resolved that the expansion of the Knowledge and Suitability interview to include questions on local geography and an appropriate level of mathematical ability be approved.

(The meeting ended at 6.55 pm)