

Licensing Committee – 28 April 2009

Present: Councillor Mrs Allgrove (Chairman)
Councillors, Critchard, Coles, Mrs Court-Stenning, McMahon,
Meikle, Murphy, Stuart-Thorn, Watson and Woolley.

Officers: Mr J Barrahan (Chief Environmental Health Officer),
Mrs J Bradburn (Operations Manager - Public Safety),
Mrs D Durham (Democratic Services Officer), Miss A Hunt
(Licensing Officer), Mrs J Jackson (Legal Services Manager),
Miss H Mockridge (Administrative Officer – Democratic
Services) and Miss O Walton (Licensing Officer)

(The meeting commenced at 6.15 pm).

1. Apologies/Substitution

Apologies : Councillors Beaven, House and Murphy.
Substitution : Councillor Stuart-Thorn for Councillor Beaven.

2. Minutes

The minutes of the meeting held on 1 October 2008 were taken as read and were signed.

3. Declaration of Interests

Councillor Critchard declared a personal interest as one of the taxi drivers was known to him.

4. Public Question Time

The Chairman confirmed the procedure regarding Public Question Time. Mr Toon, a taxi driver asked the Committee to reconsider the rule about the replacement of specialist vehicles. He felt that they should be no older than seven years old from the date of first registration. It would impact on business as newer vehicles were too expensive to purchase.

The Chairman asked if vehicles used for mobility scooters and alike could be considered as specialist vehicles. The Principal Licensing Officer said that these could be considered on an individual basis.

5. Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook and Related Policy Issues

Considered report previously circulated, concerning the review, renewal and consolidation of a number of existing hackney carriage and private hire driver policies.

The Licensing Department had been working with the local taxi trade to review and consolidate a number of previous decisions and practices undertaken by the Council. The purpose was to draw all the recommendations, policies, practice and conditions into one document. The document would be named the "Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook" and once approved, would be the definitive source of information for those in the trade, officers and other agencies. The draft of this handbook was submitted.

Previously the Council had removed the restriction on the number of Hackney Carriages in Taunton Deane. In response to Government Policy in relation to the Disability Discrimination Act 1995, a resolution was made that all new licensed Hackney Carriages would need to be wheelchair accessible. A period of protection until 2005 was granted for the existing saloon fleet. This date had since been extended to 2012. The Department for Transport (DfT) had launched a consultation document on 'Improving Access to Taxis' which had raised the following points:-

- Disability Discrimination Act compliance could not be seen as just providing wheelchair accessible vehicles;
- There was a recognition that disability could take many forms and therefore different types of vehicle could provide the best response to this; and
- The current make up of the Taunton Deane fleet compared favourably with the national statistics in terms of proportion of wheelchair accessible vehicles.

There were currently 140 Hackney Carriages in Taunton Deane, of which 86 were wheelchair accessible. There were 54 saloon vehicles and a total of 60 of plates 1 – 63 were currently occupied.

Until there was clear direction from Government, it was proposed that the number of saloon vehicles would be set at a maximum of 65. 65 plates would be specifically allocated as saloon plates which would be allocated to existing users of such plates. Any remaining saloon plates would be allocated on a first come, first served basis.

The Council had previously agreed that any newly licensed vehicle would have to comply with a standard livery requirement. However, this had never been implemented. The imposition of any new scheme would have to include a considerable lead time of 5 years, so that any consequent vehicle change could be planned by vehicle operators.

Reported that there was no evidence to suggest that any potential benefits outweighed the considerable outlay to the trade in implementing a livery scheme.

The Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook had been developed to consolidate information in relation to the Council's approach to taxi licensing.

The Handbook would be an evolving policy document for use by all in the trade. The Handbook would be sent out with every new application and would be available on the Council's website for viewing, or downloading.

The more important issues contained in the Handbook were detailed. In addition it was intended to remove the requirement for vehicle engines to be at least 1400 cubic capacity. This would allow the trade to explore smaller engines and/or alternate fuel vehicles to address environmental concerns.

It was intended that future minor amendments to the Handbook would be made in agreement with the Principal Licensing Officer and the Chairman of the Licensing Committee. Major changes would be referred to the Licensing Committee for agreement.

Extensive consultations had been undertaken in developing the handbook with the local taxi trade. Comments from the consultation had been included in the Handbook. There appeared to be broad support for the principle and contents of the Handbook from the trade.

Consultation had also been undertaken with the Access Officer from the Taunton Deane Disability Forum. The Forum supported maintaining the fleet balance of saloons and wheelchair accessible vehicles as currently existed. The Forum reported a lack of available Wheelchair Accessible Vehicles between 8 and 9am and 3 and 4pm. However this was due to bookings related to taking children to and from school which was a problem for all styles of vehicles and customers.

The Forum had also reported more concerns about allegations relating to taxi driver behaviour in that some taxi drivers were sometimes unwilling to take wheelchair users and excuses were made or wheelchair users were allegedly blatantly ignored. This type of behaviour was contrary to existing drivers conditions and would be investigated separately.

During the discussion of this item Members made the following comments and also asked questions (Responses to questions are shown in italics).

- That the Taunton Deane Disability Forum be consulted if applicable;
- 65 saloon vehicles maintained a healthy balance with DDA compliant vehicles and should be reviewed on an annual basis;
- Two of the unallocated saloon plates should be allocated to new operators; and
- The vehicle specification referred to in the Handbook should not specify a particular make of vehicle – *These would be detailed as specialist/novelty vehicles.*

Resolved that the Executive be recommended to:-

- (1) Repeal the resolutions 4 and 5 of the Environmental Services Committee of 17 November 1998 (Minute No. 50/1998 refers) relating to vehicle livery;
- (2) Repeal the previous Executive resolutions 1 and 2 of 19 December 2001 (Minute No. 136/2001 refers) relating to wheelchair accessible vehicles;
- (3) Adopt the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook, with the policy implications that this entails, including the issue of two unallocated saloon plates to new operators;
- (4) Agree that any future changes to the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook be undertaken with prior consultation with the taxi trade through the Taunton Deane Taxi Association and Taunton Deane Disability Forum and that any future changes would be approved by the Licensing Committee at the discretion of the Chairman of the Licensing Committee; and
- (5) Adopt the following conditions contained within the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook, under the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976:-
 - Standard Conditions for A Hackney Carriage/Private Hire Driver's Licence;
 - Standard Conditions for Private Hire Operators Licence;
 - Standard Conditions for a Hackney Carriage Vehicle Licence;
 - Standard Conditions for a Private Hire Vehicle Licence; and
 - Conditions for vehicle testing and Hackney Carriage and Private Hire Vehicle Test Criteria.

6. European Services Directive

Considered report previously circulated, concerning Directive 2006/123/EC of the European Parliament on services in the internal market that had been adopted on 12 December 2006 and had to be implemented by 28 December 2009.

The Directive, known as the European Services Directive, provided that the majority of licensing applications had to be capable of being downloaded and submitted together with any payment online.

The Directive aimed to break down barriers to cross border trade in services between countries in the European Union by making it easier for service

providers to offer their services to customers in other European Union countries.

It also assisted the fundamental freedoms guaranteed in Articles 43 and 49 of the Treaty establishing the European Community. In order to achieve this, the provisions of the Directive aimed to simplify administrative procedures, remove obstacles for service activities as well as enhance both mutual trust between Member States and the confidence of providers and consumers in the Internal Market.

The Directive primarily affected the application processes of the Licensing team. It excluded a number of services from its scope and these exclusions were optional in the sense that Member States could apply some of the general principles and arrangements provided in the Services Directive to some or all of the excluded services. It was therefore possible that although excluded by the Directive, the Government could choose to include them within the scope of the Act. Such exclusions included the Gambling Act 2005 and Hackney Carriage and Private Hire Vehicles and Drivers. Both were originally included within the scope of the directive, however, they were removed due to lobbying by some Member States.

Licence applications, authorisation schemes, approval regimes, regulations and administrative practices had to comply with the Directive's criteria. They had to be non-discriminatory, necessary and proportionate. The Council was therefore scrutinising the relevant policies and applications to ensure compliance.

The Department of Business, Enterprise and Regulatory Reform (BERR) had been appointed the Point of Single Contact (PSC) for Great Britain by the Government and would require deep links to the Council's website to signpost applicants and also to accept applications on the Council's behalf.

Guidance from BERR stated that enforcement costs should not be assimilated with the application fee. This was to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.

Considerable work was required to provide the mechanism on the Council's website and to utilise a BERR supported facility through the national "Business Link" website to allow for the full online submission of applications.

A list of the processes currently undertaken by the Licensing Team, which would need to be fully available on line were also submitted.

Discussions were taking place to explore how practicable it would be for this work to be undertaken jointly across all the Somerset Councils. For Taunton Deane and Somerset County Council, early discussions with Southwest One were taking place regarding the potential IT solutions that could be available and any cost implications.

Resolved that the report be noted.

7. Policing and Crime Bill

Considered report previously circulated, concerning the Policing and Crime Bill which had been introduced to the House of Commons on 18 December 2008 and was likely to take effect during Summer 2009.

The Policing and Crime Bill was made up of seven parts and the impact that the legislation was anticipated to have on Licensing Authorities was summarised.

The Bill sought to:-

- Place a duty on Police Authorities to have regard to public views in policing areas;
- Introduce measures to protect vulnerable groups such as prostitutes, including Sex Offender Prevention Orders and Foreign Travel Orders;
- Introduce provisions to prevent low level crime and disorder by introducing mandatory licensing conditions relating to alcohol, amending Police powers to deal with children drinking alcohol in public, increasing penalties for those who sold to children and those who refused to stop drinking in public;
- Implement the main recommendations of Asset Recovery Action Plan (2007) and strengthen arrangement for recovery of assets obtained through criminal means;
- Implement the key recommendations of Independent Review of Airport Policing.

This included additional duties of Police Authorities to have regard to public views on policing in their area.

With regard to the introduction of measures to reduce the demand for prostitution, a new offence of paying for sex with someone who was controlled for gain would be introduced and courts would be given powers to make Premises Closure Orders where there was evidence of the premises being used for certain prostitution and pornography offences. The Bill would implement the recommendations from 'Tackling the demand for prostitution: A Review'. It would also amend how lap dancing was licensed so that it was treated in the same way as other sex establishments.

The Bill would amend Police powers to reduce alcohol misuse and deal with young people drinking alcohol in public. Provisions would also be introduced to raise maximum penalties for premises that sold alcohol to young people and those people who refused to stop drinking in public. It also made provisions to allow the Secretary of State to create, through Secondary

Legislation, mandatory conditions relating to alcohol to be added to premises licences that included the licensable activity of the sale of alcohol.

Additional powers for the Police, aimed at improving the recovery of criminal assets was also included.

The Bill amended and clarified a number of provisions within the Extradition Act 2003, enhanced airport security and included provisions for the Criminal Records Bureau to supply criminal convictions certificates to employers.

Two parts of the Bill had an effect on Licensing Authorities, Part 2 and Part 3, and the main changes were summarised.

A new category of 'sex establishment' called a 'sex encounter venue' would be inserted into Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Licensing of lap dancing and pole dancing clubs would also be introduced.

A Sex Encounter Venue would be defined as a premises where certain entertainment was provided or permitted to be provided, by or on behalf of the organiser in front of a live audience for the financial gain of the organiser or entertainer.

The Bill included a provision so that it did not matter whether those admitted to the premises paid for admission to, or membership of, the club. It also provided powers to Local Authorities to limit the number of sex establishments of a certain type in a locality as well as the number of sex establishments generally and the Local Authority could refuse an application on this basis.

Local Authorities would have the power to prescribe regulations, standard terms and conditions for sex establishment licences and the standard conditions on a sex encounter venue licence which could be different to those on other kinds of sex establishment licences.

As far as alcohol misuse was concerned, the Bill would amend the Licensing Act 2003 to create enabling powers that allowed the Secretary of State to set out in Secondary Legislation a small number of mandatory licence conditions.

These conditions would be aimed at reducing and dealing with the abuse of alcohol and would apply to all new and existing premises licences and club premises certificates which permitted the sale of alcohol. The Secretary of State would also set out a larger number of permitted conditions, which the Licensing Authority could, in consultation with Responsible Authorities apply to more than one licensed premises or club at a time.

All the conditions related to the four licensing objectives set out in the Licensing Act 2003 and the new conditions would take precedence over any existing licensing conditions. The Bill provided the enabling powers for a mandatory code of practice for alcohol retailing.

The mandatory list of conditions would be mainly prohibitive and would be set down by the Secretary of State after consultation with relevant stake-holders. The conditions were likely to be aimed at stopping promotions that encouraged people to drink more, helping consumers make an informed choice when purchasing alcohol about the amount of alcohol their drink contained and to complement the Licensing Act in tackling underage sales.

Licensing Authorities would also be given the power to impose blanket conditions on premises in a locality where there had been significant alcohol-related nuisance or disorder. This imposition could either be instigated by the Local Authority or by a Statutory Responsible Authority on application. The pool of conditions would again be set down by the Secretary of State and were likely to be aimed at the following:-

- Stopping promotions or activities aimed at encouraging people to drink more than they might otherwise;
- The training of staff to complement the Licensing Act and to ensure that problems were minimised;
- The responsible management of the premises to ensure that incidents of crime and disorder were minimised;
- To ensure the orderly dispersal of customers from premises to minimise likelihood of crime and disorder occurring; and
- Risk assessments being undertaken to minimise the likelihood of crime and disorder occurring.

A list of permitted conditions which Local Authorities could impose, the procedure for imposing and advertising them and the procedure for varying, reviewing and appealing against them would be specified by the Secretary of State in Secondary Legislation and Statutory Guidance in due course.

There were no financial resources available for Licensing Authorities to administer or enforce the Act once made. Existing premises licences and club premises certificates would not be replaced however each licence holder would receive an amendment to their licence by way of new conditions. The Council had over 400 premises licences and club premises certificates.

Resolved that the report be noted.

(The meeting ended at 7.50pm)