

Licensing Committee – 13 June 2017

Present: Councillors Mrs Blatchford, Brown, Davies, Miss Durdan, Mrs Gunner, Hunt, James, R Lees, Morrell, Nicholls and Sully.

Officers: John Rendell (Licensing Manager), Alison Evens (Licensing Officer), Fern Avis (Licensing Officer) and Clare Rendell (Democratic Services Officer)

Other: Councillor Berry

(The meeting commenced at 6.15 pm)

9. Appointment of Chairman

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

10. Appointment of Vice-Chairman

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

11. Apologies/Substitution

Apologies: Councillors Gage, Mrs Hill, Mrs Lees and Ross.

Substitution: Councillor R Lees for Mrs S Lees.

12. Minutes

The minutes of the meeting of the Licensing Committee held on 22 February 2017 were taken as read and were signed.

13. Licensing Service Update Report

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

A summary of the activity and performance of the Licensing Service since the last meeting of the Committee was as follows:-

- The performance of the Licensing Service was measured against the number of applications that were completed within 14 days of them being determined. The target was 95%.
- This target had been reached between 1 January and 31 March 2017.

- This was the third consecutive quarter that the service had achieved its target.
- The performance of the service was remarkable and testament to the Licensing Manager, who was responsible for the positive change within the department.

Members were provided with a comparison of the number of applications received between January and March 2017 for the preceding two years and a summary of the numbers of licenses in force and notices given as at 18 May 2017.

There had been an increase in enquiries and subsequent applications in relation to Premises Licences for festival style events. There had also been an increase in street trading enquiries raised by businesses and individuals who had sought to trade in the town centre. Economic Development and County Highways were responsible for the majority of the decisions and so therefore it was considered that a yearly street trading licence would be granted to Taunton Deane Borough Council (TDBC) which allowed Economic Development the flexibility to control the town centre traders and the impact on the character of the town.

The numbers of service requests received by the service between January and March 2017, compared with the previous two years were also reported. There were more service requests recorded in 2015 and 2016 due to improved record keeping.

Since 6 April 2017, all applications received for Licensing Act 2003 licences required proof of the right to work in the United Kingdom (UK) to be provided by the applicant. This applied to the following licences:-

- Personal Licences;
- Grant of Premises Licences;
- Full Variation of Premises Licences;
- Transfer of Premises Licences; and
- Interim Authority Notices.

All the forms had been updated and all applications had been sent to the Home Office to be checked.

Vaping and e-cigarettes was a subject that had been brought up by the taxi trade in respect of smoking in Hackney Carriages/private hire vehicles. The question had been 'was this smoking'? If it was not, then clearly drivers/passengers could vape in vehicles. A short report was presented to the Committee on the current national position on vaping.

Hackney Carriage/private hire drivers and operators had also sought guidance in the area of CCTV recording in their vehicles. Several drivers had already installed CCTV equipment in their vehicles. To ensure uniformity and legality, the Licensing Officer had compiled a report which was presented to the Committee.

In March 2017 new guidance had been produced by the Committee of Advertising Practice which had followed a review carried out by the Advertising Standards Agency into misleading advertising practices by private door-to-door collection companies. Problems with charitable collection bags issued by commercial companies had included:-

- Recipients were given the impression they were donating directly to a charity when they were not;
- The companies had not provided their name or commercial status on the front of the collection bags;
- Undue prominence was given to a charity's name and registration number on the collection bags; and
- The company name was not given equal prominence when it appeared alongside a charity's name.

This new guidance provided examples of the type of wording and presentation on the collection bags that were in line with the new rules.

During the discussion of this item, the following points were raised:-

- Members were pleased with the update report.
- Members requested whether it would be possible to include different performance indicators within the update report.
- Concern was raised about the section on vaping being allowed in taxi vehicles.

The Licensing Manager advised the Members that his opinion would be that vaping would not be condoned in vehicles as it would be classed as unprofessional behaviour. For the enforcement to be kept straightforward, the view was that vaping should be prohibited.

- Members raised concern on the wording used in several sections of the report on use of CCTV in taxi vehicles and also the possibility of inappropriate use of the recordings.

This would be revised by the Licensing Department.

Resolved that the report be noted.

14. Proposal to amend the standard conditions attached to licences to act as the drivers of Hackney Carriage and private hire vehicles

Considered report previously circulated, concerning a proposed amendment to the standard conditions attached to licences to act as the drivers of Hackney Carriage and private hire vehicles, which introduced a requirement for licence holders to notify the licensing authority of any endorsements made against their Driver and Vehicle Licensing Agency (DVLA) driving licence.

Hackney Carriage and private hire drivers were controlled by two pieces of legislation; the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 gave District Councils the power to suspend, revoke or refuse to renew a drivers licence where the holder had been convicted of an offence which involved dishonesty, indecency, violence or had been convicted of an offence under or had failed to comply with the provisions of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847.

When the authority determined the fitness and propriety of an applicant or licence holder, three of the most significant considerations were:-

- An individuals' health;
- Any criminal history, for example, the existence of any convictions, cautions, etc; and
- The existence of any convictions or endorsements on their DVLA driving licence.

Whilst the expectation was that all applicants would have a clean DVLA driving licence, the reality was that many individuals who had applied had, at some point, received convictions or endorsements.

Condition 17, in the Private Hire, Hackney Carriage Driver, Vehicle and Operators Handbook (more commonly known as the Taxi Handbook), required the holder of the licence to inform the Council in writing within 72 hours if charged or convicted of any offences that had occurred since the granting of their licence. However, this did not include the disclosure of any endorsements received on their DVLA driving licence.

Several motoring offences were often dealt with by fixed penalty notices and endorsements being issued. Because in the current policy, endorsements were not reported and Hackney Carriage and private hire vehicle driver licences could last up to three years, it was possible the authority was putting the public at risk.

During the discussion of this item, the following points were raised:-

- Members requested more information on the 'fit and proper person' test. This had been raised at a recent Sub-Committee.
Each Council had their own rules on what a 'fit and proper person' was. The Taxi Handbook gave the information on what TDBC Licensing Department used. More detailed information was given within the Sub-Committee reports and this information was taken from 'Taxis, Licensing Law and Practice' by James Button. This publication was often used as guidance by the department.
- Members requested more detailed information on what was classed as 'fit and proper' for members of the public.
The Licensing Department had produced a guide for new applicants, which was available on the Council's website. The Taxi Handbook was used once the licence was granted.
- During a recent Sub-Committee, several sections within the Taxi Handbook had been highlighted that needed amending. A full review of the document was requested.
The Licensing Manager accepted that the Taxi Handbook needed amending and would add the review to the Forward Plan.

Resolved that condition 17 of the Private Hire and Hackney Carriage Driver, Vehicle and Operators Handbook (more commonly referred to as the Taxi Handbook) be changed to read - 'The Licensee must inform the Licensing Authority in writing within 72 hours if charged or convicted of any offence or upon endorsement of their DVLA licence, since granting of the Hackney Carriage/private hire vehicle drivers licence'.

15. Background checks for Hackney Carriage and private hire vehicle drivers and would be drivers who specifically have lived outside of the United Kingdom (UK)

Considered report previously circulated, concerning a recommendation to replace the current policy in respect of background checks for those applying for the grant or renewal of a Hackney Carriage/private hire driver's licence who had lived outside of the UK, at any point, since the age of ten.

The Local Government (Miscellaneous Provisions) Act 1976 stated that a Local Authority should not grant a licence unless they were satisfied the applicant was a fit and proper person.

The term 'fit and proper person' was not legally defined and the Local Government (Miscellaneous Provisions) Act 1976 allowed the Local Authority to 'require an applicant to submit to the Local Authority such information that they might reasonably consider necessary to enable them to determine whether the licence should be granted or whether conditions should be attached to any such licence'.

Due to the nature of the Hackney Carriage/private hire drivers' role, it was important that the Authority checked the background/history of each applicant in order to make an informed decision about granting them a licence, specifically whether they had any convictions, cautions, reprimands or warnings. It was Council policy that once licensed, the holder of the licence applied for a new enhanced disclosure with the Disclosure and Barring Service (formally the Criminal Records Bureau) which would establish if they had any convictions.

Until recently the Licensing Team had not imposed the policy of the Taxi Handbook to obtain background information from applicants who had lived outside of the UK. Introducing a more robust policy to gather background information from applicants that had lived outside of the UK for more than six months would ensure that the Council did the best it could to protect the public.

It was unlikely that introducing the proposed amendment to the policy would have an adverse effect on drivers who applied to become a Hackney Carriage/private hire driver.

During the discussion of this item, the following points were raised:-

- Members agreed that the proposed revision of the policy was a good idea.
- Members requested that when the policy was written, that the department checked that the policy would be relevant after the UK had left the European Union.

Resolved that:-

- 1) The proposal to replace the Councils current policy be approved; and
- 2) It be agreed that this new policy be applied to all new applications with immediate effect and to come into effect from 1 January 2018 for existing drivers, to allow time for the necessary paperwork to be obtained.

16. Street Trading

Considered report previously circulated, concerning an overview of the Street Trading Policy and Procedure of the Council's Licensing Service, as requested by Members of the Committee at the meeting on 22 February 2017.

Street trading was an activity that required consent or a licence from the relevant Local Authority, if that Authority had adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Taunton Deane Borough Council (TDBC) had adopted Schedule 4 of this Act at a meeting of Full Council held on 10 December 1985 and had designated all 'streets' in the Borough as 'consent streets' in the process, which meant that street trading was prohibited in those areas without consent from the Council. Under those arrangements, the Council currently authorised trading from public land and private land. The purpose of the regulation was to prevent obstructions on land, danger, nuisance or annoyance.

TDBC issued street trading consents rather than licences. The difference between a licence and a consent related to the level of formal procedure involved and legal protection offered to the trader. Generally a licence was more suitable for a fixed, market-type trading environment. Consents provided a more flexible means of controlling street trading and were not limited by statute in their refusal or revocation.

There were 21 consents currently in force. These authorised:-

- 2 regular markets;
- 11 traders within the Town Centre of Taunton;
- 2 traders who were mobile within the Borough and visited various sites;
- 5 traders who occupied pitches on private land, such as an industrial estate; and
- 1 trader who had permission to trade within Council owned public spaces, such as Vivary Park.

During the discussion of this item, the following points were raised:-

- Members requested clarification on the term 'sanitary accommodation' within the policy.
The Licensing Manager gave what he had understood to be the meaning of the term. Sanitary accommodation related to the toilet facilities.
- Members queried some of the wording used in the policy on Mobile Trading and the use of chimes.
An explanation of the wording was given by the Licensing Manager.
- Concern was raised about the fees charged to applicants. It was suggested that the fees were too low and did not cover the cost of utilities.
The Licensing Manager advised the Committee Members that the department had to be careful with the fees they charged customers. The department was not allowed to make a profit; they were only allowed to cover the costs incurred.
- Members were pleased with the review, but requested that it was checked thoroughly before it was published. A full review to include fees and timescales was requested.
A full review would be added to the Forward Plan for next year.

Resolved that the report be noted.

17. Minutes of the Licensing Sub-Committees

Considered minutes previously circulated of recent meetings of the Licensing Sub-Committee.

Resolved that the minutes be noted for information.

18. Forward Plan

Members discussed items that they would like to be brought before the Committee at the next meeting. These were identified as:-

- A full review of the Taxi Handbook; and
- A full review of Street Trading Consents.

Resolved that these items would be added to the Licensing Committee's Forward Plan.

(The meeting ended at 7.25pm)