

SWT Licensing Committee - 16 September 2019

Present: Councillor Kelly Durdan (Chair)

Councillors Sarah Wakefield, Marcus Barr, Caroline Ellis, Marcia Hill, Mark Lithgow, Janet Lloyd, Martin Peters, Ray Tully and Brenda Weston
(In place of Libby Lisgo)

Officers: Clare Rendell and John Rendell

Also Present: Councillor Alan Wedderkopp

(The meeting commenced at 6.15 pm)

9. Apologies

Apologies were received from Councillors P Bolton, L Lisgo and A Milne.

10. Minutes of the previous meeting of the Licensing Committee

(Minutes of the meeting of the Licensing Committee held on 24 June 2019 circulated with the agenda)

Resolved that the minutes of the Licensing Committee held on 24 June 2019 be confirmed as a correct record.

11. Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr M Barr	All Items	Wellington	Personal	Spoke and Voted
Cllr C Ellis	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr Mrs Hill	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Lithgow	All Items	Wellington	Personal	Spoke and Voted
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr M Peters	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr R Tully	All Items	West Monkton	Personal	Spoke and Voted
Cllr A Wedderkopp	All Items	SCC & Taunton Charter Trustee	Personal	Spoke

Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
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12. **Public Participation**

Mr Mike Davis spoke to the Committee in regards to tax evasion within the local taxi trade.

Dear Committee members,

A1 Ace Transport Services have for the last decade brought to the attention of the Council the widespread VAT evasion within the local taxi trade. The two prior Licensing Managers, Julia Braeburn and Ian Carter, had also introduced illegal policies which we had to fight, from pricing policies to overcharging of fees, both of which John Rendell could explain what happened to the policies and officers.

Last year the Licensing Department agreed to launch an investigation in to the illegal “competitive advantage” of our tax evading competitors. There was agreement that operators who were evading tax in this way were not “fit and proper” and therefore should not hold a license.

It seemed that the investigation had ground to a halt even though the Council had written to all operators, nothing would happen. On several levels this was wrong and if not followed through, it would leave the authority of the Council somewhat weakened in the eyes of those who flouted the law.

From our perspective the situation had reached the point where we were prepared to take the Council through a legal process for knowingly failing to operate the Licensing regime as laid out in the terms and conditions.

If we could not find a way forward, it would be the second time that we would take the Council through a legal process. The first being the illegal setting of fees, which ended up with the tax payer having to spend £20,000 on a National Audit Office investigation. In the report Taunton Deane Borough Council (TDBC) were found to be in denial as to the law and had not showed any speed in fixing their illegal position. His comment of ‘but for the tenacity of Mr Davis I was in no doubt that TDBC would still be setting fees illegally’ proved that I did not back down when I was sure of my position. James Button the well-known Licensing Lawyer had agreed to represent me should Somerset West and Taunton Council (SWT) not proceed with getting rid of operators who were clearly operating outside the law.

In short you knew operators were evading VAT payments and were not doing anything about it. There had been more than sufficient time to do something about it.

The Licensing Specialist responded with the following:-

The purpose of Licensing was the protection of the public. He explained that any member of the public stepping into a motor vehicle driven by a stranger, must be

able to trust the driver. He highlighted: Were they honest? Were they competent? Were they safe? Were they trustworthy?

As required by the Local Government (Miscellaneous Provisions) Act 1976, we must not grant a taxi or private hire driver licence unless we were satisfied that the applicant:

- Had held a driving licence for a minimum of 12 months;
- Had the right to work in the UK; and
- Was a 'fit and proper person'.

The legislation did not define what a 'fit and proper person' was or what the Council must consider in reaching that verdict so it was at the Council's discretion. There were however, naturally, common practices across Councils, such as:

- Criminal record check – covered by the 'DBS check';
- Driving licence checks for existence of any endorsements e.g. points;
- Results of medical examination (carried out by doctor); and
- Knowledge test.

It followed that once a person was licensed as a driver, that their licence would be revoked if they no longer held a valid driving licence, did not have the right to work in the UK or were no longer considered 'fit and proper'.

Mr Davis' argument was that 'if they were fiddling their taxes, how did you know if they were not fiddling their customers?'

To be clear, the Council did not have to satisfy itself that drivers and owners of taxi and private hire vehicles had their tax affairs in order.

He advised that a business needed to be registered for VAT when its taxable turnover was more than £85,000. According to Mr Davis, it was reasonable to expect taxi businesses with 4 or more licensed vehicles to generate income above £85,000 and therefore a VAT registration was necessary. There were around 8 businesses and taxi radio circuits each with 4 or more vehicles; ergo 7 businesses which Mr Davis believed should be VAT registered.

Clearly it was of some concern if there were businesses operating locally who were breaking the law. It was on that basis that an investigation into Mr Davis' allegations began around August 2018, the aims of which were:

- To identify businesses who should be VAT registered;
- To report to Her Majesty's Revenue and Customs (HMRC) businesses who were not registered but should be; and
- To seek to instigate, suspend or revoke an individual's drivers licence if it was judged that they were no longer 'fit and proper'.

A questionnaire was sent to the 8 drivers/operators with 4 or more licensed vehicles to establish whether VAT registration was required. Unfortunately, not all the recipients of the letter were co-operative and the investigation dragged on a number of months, coinciding with the formation of the New Council and reorganisation. Mr Davis was contacted in January 2019 to be advised that the investigation would be put on hold until the service had become stable. At that point, 1 referral had been made to HMRC, 2 companies were confirmed to be VAT registered and further enquiries would continue into the other 5.

During the discussion, the following points were raised:-

- Councillors appreciated the concerns raised by Mr Davis, however, the responsibility to monitor VAT fell with HMRC and that it wasn't appropriate for SWT to check whether operators were registered for VAT.
Mr Davis explained that as operators had to apply to be licensed, it was not unreasonable to ask if applicants were VAT registered as part of the application process.
- Councillors queried whether Mr Davis had already reported the companies he believed not to be registered to HMRC?
Yes he had but HMRC could not divulge any information on the investigations to him and it appeared that nothing was ever done.
- Councillors agreed that it was a difficult situation and that officers should seek legal advice.
- The Licensing Specialist would seek legal advice on what fell within the definition of 'fit and proper person'.
- Mr Davis advised the Committee that he had made his position clear and that it was a moral question and that SWT should include VAT registration within the 'fit and proper' criteria.

13. **Licensing Update Report**

During the discussion, the following points were raised:-

- The Licensing Specialist advised the Committee that since the agenda had been published, he had recruited additional resource for the team on a temporary basis.
- The Chair advised the Committee that she had requested a meeting with the Head of Customer, Case Manager Lead and Licensing Specialist to discuss resource within the team. She requested that if any of the Committee had any comments to be raised, to contact her and she would pass those on.
Councillors supported the Chair and her request to meet with the Head of Customer to discuss resource and raised concern on the team's workload.
- Councillors requested that taxi licences were updated as a whole, as they had seen several badges that still had the old logos on them. They also queried whether vehicle door stickers could be included in the pack issued with the taxi badges.
The Licensing Specialist reminded the Committee that he had compiled a work plan which included all the projects that were in the pipeline and how the work load had been prioritised. He further explained that there were two taxi regimes being operated within the District and that the work to amalgamate the two regimes was high on the list of project work to be carried out. He advised that he wanted to carry out the work in smaller sections as that would make the work easier to manage and ensure it was completed in a timely manner.
- Councillors sympathised with the Licensing Specialist and agreed that the work needed to be carried out on joining the two taxi zones would take time and would require consultation with the taxi operators from across both zones to ensure that concerns were addressed.

- Councillors queried what progress had been made on the request to licence a tuk tuk operator within the District.
The Licensing Specialist advised that work had been done to see what other Councils had implemented through similar requests. He had concerns on how safe it would be to operate within the towns and advised that proper checks would need to be made. A new policy would also need to be written and brought back to Committee at a later date.
- Councillors shared the concerns of the Licensing Specialist on the safety of tuk tuks and suggested that if a policy was written up for their use, then it should be for electric vehicles only.

Resolved: that the Committee noted the Licensing Update Report.

(The Meeting ended at 7.30 pm)