

Minutes of the Meeting of the Licensing Committee held on 13 March 2019 at 7.00 pm

Present: Councillors Ben Maney (Chair), Tony Fish (Vice-Chair), Qaisar Abbas, Alex Anderson, Leslie Gamester, Graham Hamilton, Steve Liddiard, David Potter, Joycelyn Redsell, Elizabeth Rigby, Sue Sammons and Sue Shinnick

Apologies: Councillors Gary Collins and Pauline Tolson

In attendance: Paul Adams, Principal Licensing Officer
Simon Scrowther, Legal Representative
Lois Bland, Legal Support Officer
Wendy Le, Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

7. Minutes

The following amendments were to be made:

- Councillor Redsell to be added to the attendance list as she had been present at the last Licensing Committee meeting.

The Chair noted that the Changes to Animal Welfare Licensing had yet to go to Full Council and questioned when the item was due to be heard at Full Council. He also queried on the fees and charges within the item. Paul Adams, Joint Licensing Manager, would check with the Licensing Team. In regards to the fees and charges, these had been incorporated into the overall Capital Programme Bids Report which had been heard at Full Council in February 2019.

On the Changes to Animal Welfare Licensing item, Councillor Hamilton asked that it be noted that he had contacted the Council's Legal Team with queries which had been sufficiently answered.

8. Items of Urgent Business

The Chair had agreed to one item of urgent business which would be deferred to after the end of the last item. The item would be heard in exempt session due to the sensitive and confidential nature of the item.

9. Declaration of Interests

There were no declarations of interest.

10. Guidance on Determining the Suitability of Applicants and Licensees for Hackney Carriage and Private Hire Licences

The report was presented by Paul Adams which outlined a review of the Council's Statement of Policy and Guidelines relating to the relevance of Convictions, Formal/Simple Cautions, Complaints and/or other matters. This review followed the guidance of the Institute of Licensing (IOL).

Noting the increase of severity in the conviction of using a mobile phone, Councillor Hamilton asked if this included hand-free mobile phone use. Paul Adams explained the conviction itself was considered in licence applications and not the reasons for the conviction. The use of mobile phones was seen as an area of increasing severity but only a small majority with this conviction was heard at Licensing Sub Committee.

Referring to paragraph 3.2.4 of appendix 1, the Chair queried why a criminal record check was undertaken on those who had resided outside the UK for more than 6 months from the age of 10 years old as usually the age of 18 years old was considered. He thought the age of 10 was quite young. Paul Adams was uncertain why the given age was 10 years old and would look into the background detail for this and feedback to the Committee. The Chair went on to say that if the IOL guidance was to be adopted, Thurrock Council's guidance should not be from the age of 10 years old.

On paragraph 3.2.8, Councillor Redsell asked for clarification. Paul Adams explained that the job loss of a taxi licence applicant should not be taken into consideration.

Councillor Sammons questioned why standard DBS checks were undertaken on taxi drivers and enhanced DBS checks were undertaken on private hire vehicles (PHV). Paul Adams explained that enhanced DBS checks were required on taxi drivers and PHVs in Thurrock. It was the Local Authority's decision whether to undertake enhanced or standard DBS checks and was not a legal requirement.

Councillor Hamilton queried whether mini cab drivers were a separate entity to which Paul Adams confirmed they were not. There were no distinctions as all drivers undertook the same job.

Referring to point 8 on appendix 2, page 41, the Chair questioned if it was an obligation for drivers to declare certain information. A recent case had revealed that legal legislation stated that certain information did not have to be declared and the Chair sought clarification on this. Paul Adams confirmed legal legislation did state that certain information did not have to be declared but conditions could be attached to a licence. This arose from the London Hackney Carriage Act 1831 was old and had applied to horse carriages and the government was currently looking into the legislation.

RESOLVED:

That the Licensing Committee considered the guidance and agreed for the Councils Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and/or other matters to be reviewed and amended in line with the guidance. The revised policy to then go for public consultation, with the consultation response to be returned to this committee for consideration.

11. Taxi and Private Hire Vehicles, Consultation on Statutory Guidance for Licensing Authorities

Paul Adams presented the report which introduced the draft statutory guidance and Officers' proposed response to the consultation. On paragraph 2.3, Paul Adams pointed out the figures to be added:

- 186 Private hire Vehicles,
- 83 Hackney Carriage Vehicles,
- 41 Private Hire Operators, and
- 371 Drivers.

The Licensing Committee's comments on the report would be fed into the consultation.

Councillor Hamilton said that some countries were not as efficient to respond to criminal record queries and their databases were not up to date. He asked if there were consequences if a country did not comply with a query. Paul Adams explained that a list was provided by the foreign office which indicated which countries were able to provide required information on criminal records and issue a certificate of good conduct. It was up to the Licensing Sub Committee on whether to grant a licence without the requested information. There may be occasions where convictions from other countries were not disclosed. Councillor Hamilton went on to ask what action could be taken if a person did not want to disclose their conviction within another country. Paul Adams replied that the flaw in licensing was the inability to check whether applicants had lived outside of the UK for more than 6 months. It was an offence to not disclose information requested and the service could only carry out the checks as required.

The Chair commented that 53% of the taxi licensed drivers in England and Wales were non-white and many were born overseas. The service could check with an applicant's embassy for a certificate of good conduct which should ensure no driver would slip through the checks. Referring to the list provided from the foreign office as mentioned earlier, the Chair said the list was not always accurate so should not be the only information regarding overseas applications to be relied on.

On paragraph 2.76 in appendix 1 (government's draft guidance) in regards to the safeguarding training, Councillor Redsell asked if drivers were expected to

report concerns to the police. Paul Adams answered that all drivers licensed under Thurrock Council were required to undertake the Child Sexual Exploitation (CSE) training which was mandatory and to be taken before their licence was due for renewal. Drivers were required to report concerns to the police and reports from drivers had led to two arrests recently.

The Chair questioned if the Department for Transport were consulted on the Council's guidance and if there was a timescale for the government's draft guidance to be adopted by. Answering that there was no official consultation, Paul Adams said the government's draft guidance recommended local authorities to amend their guidance to provide a regulatory guidance. There was no official timescale but the service would aim to have their guidance in place within 12 months.

The Chair thought there were many items within the government's draft guidance report that could be adopted into the Council's guidance. He hoped to see that the government were able to adopt the draft guidance despite the current national issues. Agreeing with this, Paul Adams said if the government's draft guidance was not implemented within 12 months, the Council would look to align their guidance to the government's draft guidance.

Councillor Redsell raised a query in regards to the level of language proficiency in applicants as most licensed taxi drivers did not speak English. Paul Adams answered that applicants were not required to have a formal English language qualification and an assessment was undertaken to ensure they spoke sufficient English. A minimum level of English proficiency was the standard and the Council's guidance would include this.

On CCTV, Councillor Hamilton asked if cameras were installed in the vehicles and mentioned a case in which it was deemed illegal. Paul Adams replied that the government's draft guidance stated that it was mandatory to have CCTV and the Council's policy included this. On the referred case mentioned, Paul Adams explained that the case referred to audio recording which was not legal as CCTV should not be recording audio, only visual. Drivers could press the audio record button in the event of an emergency only. Councillor Hamilton questioned if there was a panic button for passengers. Paul Adams replied that the installation of a panic button in taxis for passengers could be incorporated into the consultation of the Council's guidance.

Councillor Rigby queried on whether there were evidence of unlicensed taxis operating in Thurrock. In response, Paul Adams said the previous year had seen a successful prosecution of an unlicensed mini bus driver and enforcement action was taken. As Thurrock did not have a lively night scene similar to London, there were few unlicensed taxis. Where there were some, these were usually big seater vehicles that offered drives to the airport or events and Thurrock Council was unable to take enforcement action on these.

Councillor Sammons questioned how many big seater drivers were licensed in Thurrock. She went on to say that some were licensed taxi drivers but were operating 16 seater vehicles and found it disturbing that Thurrock Council

could not take enforcement action in these cases. Paul Adams explained that Thurrock Council granted licences for vehicles of up to 8 seaters. Vehicles with over 8 seats were dealt with by public carriages. However, complaints received by the Licensing Department were investigated.

Councillor Hamilton asked if luxury stretch limousines were counted as 8 seater vehicles. Paul Adams confirmed that there were licenses granted for limousines to operate in Thurrock provided that they were 8 seaters or less. Those with over 8 seats required an operator licence. Councillor Sammons commented that operator licences were a long process and thought it was ideal that the Council granted licences for up to 8 seater vehicles only.

Regarding complaints, the Chair questioned how passengers could complain to Thurrock Council about a driver. Answering that complaints could be made on the Council's website, Paul Adams also mentioned the vehicle licence stickers that were visible on the licenced vehicles. Stickers detailed the vehicle licence number and how to make a complaint.

Councillor Hamilton asked if the photo of the driver was mandatory in licensed vehicles to which Paul Adams confirmed yes.

The Chair asked the Licensing Committee if there were any further comments regarding the draft response proposed in appendix 3. There were no further comments on appendix 3 and the Licensing Committee was satisfied with the proposed response. The Chair asked the Licensing Committee to forward any other comments that they might have, following the meeting, to the Licensing Department so that the comments could be incorporated into the draft response before 11 April 2019.

RESOLVED:

That the Licensing Committee considered the proposed draft guidance along with the draft response and fed into the Licensing Department through the Chair any additional thoughts or comments for inclusion in the authority's response before 11 April 2019.

The meeting finished at 8.25 pm

Approved as a true and correct record

CHAIR

DATE

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Democratic Services at Direct.Democracy@thurrock.gov.uk**