

**LICENSING AND REGULATION COMMITTEE****28 March 2011****Attendance:**

Councillors:

Jackson (Chairman) (P)

Baxter (P)

Fall

Hammerton (P)

Izard (P)

Love

Mason (P)

Mather (P)

Pearce (P)

Prowse (P)

Read (P)

Thynne (P)

Wright (P)

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**1. MINUTES**

The minutes of the meeting held on 25 January 2011 had not been notified for inclusion on the agenda within the statutory deadline. The Chairman agreed to accept the item onto the agenda, as a matter requiring urgent consideration, because of its relevance to the matters considered below.

**RESOLVED:**

That the minutes of the previous meetings of the Committee, held on 25 January 2011 and 16 February 2011, be approved and adopted.

**2. PUBLIC PARTICIPATION**

Several different representatives from the taxi trade addressed the Committee during their consideration of Report LR363 and their comments are summarised below.

**3. STREET PASTORS**

(Oral Report)

Councillor Prowse declared a personal (but not prejudicial) interest in respect of this item due to her involvement with the Street Pastors. She spoke and voted thereon.

Councillor Jackson declared a personal (but not prejudicial) interest in respect of this item as her husband was on the management committee of the Street Pastors. She spoke and voted thereon.

The Committee welcomed Mr J Faulkner and Mr M Hibbert-Hingston from Winchester's Street Pastors who gave Members a presentation.

In summary, they explained that Street Pastors was a response from churches to the national problems of anti-social behaviour and alcohol related crime. Street Pastors had been successful in combating these problems in other parts of the country and had also reduced the perceived risk from crime.

They explained that Street Pastors formed an "urban trinity" between themselves, local government and the Police. Following training, the initiative sent Christians onto the streets and into pubs and parties to connect and build relationships with those they considered to be the disenfranchised of society.

Fourteen churches in Winchester had signed the Ascension Trust licence agreement (the church group that administered the schemes nationally) and 53 volunteers had so far come forward. It was anticipated that the Pastors could start patrolling the town centre from 9pm to 3.30am on Saturdays from 18 June 2011.

The Committee thanked Mr Faulkner and Mr Hibbert-Hingston for their presentation, congratulated them on their work so far and wished them well for the future.

RESOLVED:

That the presentation be noted.

4. **STATEMENT OF LICENSING POLICY WITH RESPECT TO HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES AND PRIVATE HIRE OPERATORS**  
[\(Report LR363 refers\)](#)

The Report set out an amended draft Licensing Policy following Members' comments at the previous meeting (held 25 January 2011) and consultation with the trade and other relevant partners.

At the invitation of the Chairman, the Committee heard a variety of views from Messrs Eckton (reading a representation from Mr Hussey), Wagstaffe, Fairey, Green, Ali, and Saleemi. The representations raised the following issues:

- There was a need for greater communications between the taxi trade and the Council.
- That 94 drivers had signed a petition against the penalty points system proposed in the Report.
- That the penalty points system could punish drivers twice – once by the Police for driving convictions and, secondly, by the Council for the same offence.
- That the proposed changes to age of the taxis could make some enterprises uneconomic. This was a particular concern to those companies that specialised in transporting school children, due to the

additional requirements placed on operators by the County Council and because the limited mileage these cars undertook meant that the cars remained in better condition for longer than normal use taxis.

- A suspicion that the points system was a way of reducing the number of taxi drivers working in the District
- That the points system would unfairly penalise drivers for minor misdemeanours. For example, the requirement to operate a clean car would be difficult for drivers to adhere to in wintry conditions or on journeys into the countryside.

Beyond the issues raised in the Report, the Committee also noted the comments regarding the difficulty drivers faced in attempting to turn left from Winchester station into Stockbridge Road and the need for more taxi ranks in Winchester town centre. The Head of Legal Services noted the comments and explained that officers were currently considering ways to create new ranks at Jewry Street, St Georges Street and Upper Brook Street Winchester.

In response to concerns raised during the consultation, the Committee noted the considerable expense associated with conducting unmet demand surveys, which was the only way the Council could limit the number of new hackney carriage licences it granted.

The Head of Legal Services also pointed out that officers were willing to meet with a drivers' representation group in order to improve the Council's dialogue with the taxi trade.

In response to representations received, the Head of Legal Services explained that the new points system would not increase officers' delegated authority and powers. The overriding reason for the taxi licensing regime was to ensure the safety of the travelling public. The purpose of the points system was to ensure that the drivers provided a safe service which reflected the high standards which were being sought by the Council, under whose licence the drivers operated. Drivers had to pass the test of being a fit and proper person and the new system was a method by which officers could objectively record drivers' performance. If the driver accumulated twelve points within a one year period, the Licensing Sub-Committee would be asked to determine whether the driver remained a fit and proper person and, as a consequence, whether any sanctions should be applied.

The Police had a duty to inform officers of any relevant convictions regarding licensed drivers. These cases would continue to be referred to the Licensing Sub-Committee for consideration and therefore the points system would not introduce a new "double whammy" effect as some drivers feared – it already existed and was an integral part of the fit and proper person test.

The Committee noted that officers would continue to use their discretion and were likely to issue reasonable warnings to drivers for minor misdemeanours (such as how clean a car might be) before points were awarded. In any event, any dispute over points allocated by officers would be referred to the Licensing

Sub-Committee, although the Sub-Committee would be able to impose more points if they felt that to be appropriate.

The Committee also noted that the proposed points system had already been successfully adopted at, amongst others, Salford City, Portsmouth City, Basingstoke and Dean and East Hampshire District Councils.

With regard to the particular problem faced by companies operating taxis for schools only, the Head of Legal Services agreed to report to a future meeting if the economic problems predicted by those making representations in this area did in fact occur as a result of the operation of the revised policy. Such a report could then comment on the possible creation of a new category of private hire vehicles, limited to school use only, but more lenient on the required vehicle age.

At the conclusion of debate and having taken into account the representations received at the meeting and in the Report, the Committee agreed to recommend to Cabinet the draft Licensing Policy set out at Appendix 1 of the Report, subject to the following amendments.

The Committee delegated to the Head of Legal Services (in consultation with the Chairman) authority to amend the Policy to the effect that applications would not normally be approved from drivers who had been convicted of an offence specified in Appendix A Tables 2 to 5 of the Policy. This was where the offence was carried out whilst the applicant was acting as a hackney carriage or private hire driver, or where commissioning of the offence related to the applicant's driver's licence (e.g. where a driver had burgled a house having earlier taken the occupants to the airport).

The Committee also agreed to amend (changes shown in strike through and italics) paragraph 15.5 of the Policy to read: "Any disputes regarding the issuing of penalty points will be referred to the Licensing Sub-Committee who will have the discretion to ~~award a greater number of points than displayed on the tariff, if the Complaint is upheld~~ *vary the points. However, in appealing to the Sub-Committee, drivers should be made aware that if the complaint is upheld, the Sub-Committee may decide to award more points than had been originally awarded.*"

The Committee were also concerned that maximum age requirement for vehicles, as proposed in the Report, placed an unnecessary and additional economic burden on drivers and operators. Having heard a brief comparison of neighbouring Local Authorities' policies, Members agreed to relax the Policy regarding the age of vehicles when licensed for the first time; increasing it from 2 to 3 years from the date of registration for both hackney and private hire vehicles, with the exception that the age limit may be waived in exceptional circumstances for executive vehicles or classic cars.

Following a suggestion from the Head of Legal Services, the Committee also agreed to amend the new paragraph 6.4 (shown in strike through and italics): "In exceptional circumstances, an exemption certificate may be granted to

dispense with the requirement to display the licence plate. This will only be granted where *satisfactory* proof of executive hiring ~~is to take place~~ *has been received by the Council.*"

RESOLVED:

**That Cabinet be recommended to adopt the Council's Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators, subject to the above amendments.**

5. **REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE CONDITIONS OF LICENCE**  
[\(Report LR359 refers\)](#)

The Report set out an amended Conditions of Licence, following Members' comments at the meeting held 1 December 2010 and recommended changes from officers. There had been no relevant comments from the trade during consultation.

RESOLVED:

That the Hackney Carriage and Private Hire Conditions of Licence, as set out in Appendices 1-3 be approved to come into effect from 1 April 2011.

6. **STREET TRADING – DESIGNATION OF STREETS**  
[\(Report LR358 refers\)](#)

The Report gave details of the results of the consultation process following the decision of the previous meeting (16 February 2011) to adopt Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 to control street trading and designate certain streets as consent streets.

The Head of Legal Services explained that two representations had been received during public consultation (as set out in the Report), but since its publication, these concerns had been resolved. Arrangements had been agreed with the existing flower sellers and the Head of Access and Infrastructure had confirmed that there was adequate parking for disabled drivers in the area.

Following debate, the Committee agreed the recommendations as set out, subject to the inclusion of St Clements Street and St Thomas Street as designated consent streets. These streets had been included in the consultation, but had not been included in Appendix 1 of the Report.

RESOLVED:

1 That the streets set out in Appendix 1 to the Report be designated as consent streets under Paragraph 2 of Schedule 4 to the

Local Government (Miscellaneous Provisions) Act 1982 with effect from 1 May 2011, subject to the inclusion of St Clements Street and St Thomas Street.

2 That the Head of Estates be authorised to determine applications for street trading consents under paragraph 7 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in respect of stalls and pitches forming part of the Winchester Market (including any speciality markets operated by the Council) within a consent street.

3 That the Head of Legal Services, in consultation with the Head of Estates, be authorised to determine the application process, set fees and determine the conditions to be attached to street trading consents.

4 That the Head of Legal Services be authorised to determine applications for street trading consents under paragraph 7 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in respect of any consent street in the District.

7. **MINUTES OF LICENSING SUB-COMMITTEE HELD 20 JANUARY 2011  
(LESS EXEMPT APPENDIX)**

(Report LR360 refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee held 20 January 2011 be received and noted, less exempt appendix (attached as Appendix # to the minutes).

8. **MINUTES OF LICENSING SUB-COMMITTEE HELD 15 FEBRUARY 2011  
(LESS EXEMPT APPENDIX)**

(Report LR361 refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee held 15 February 2011 be received and noted, less exempt appendix (attached as Appendix # to the minutes).

9. **MINUTES OF LICENSING SUB-COMMITTEE HELD 11 MARCH 2011 (LESS EXEMPT APPENDIX)**

(Report LR362 refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee held 11 March 2011 be received and noted, less exempt appendix (attached as Appendix # to the minutes).

10. **EXEMPT BUSINESS**

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
##	Exempt minutes of the Licensing Sub-Committees held: <ul style="list-style-type: none"> <li>• 20 January 2011</li> <li>• 15 February 2011</li> <li>• 11 March 2011</li> </ul>	Information relating to any individual. (Para 1 Schedule 12A refers) Information which is likely to reveal the identity of an individual (Para 2 Schedule 12A refers)

11. **EXEMPT MINUTES OF LICENSING SUB-COMMITTEE HELD 20 JANUARY 2011**

(Report LR360 refers)

RESOLVED:

That the exempt minutes of the Licensing Sub-Committee held 20 January 2011 be received and noted (attached as Appendix # to the minutes).

12. **EXEMPT MINUTES OF LICENSING SUB-COMMITTEE HELD 15 FEBRUARY 2011**

(Report LR361 refers)

RESOLVED:

That the exempt minutes of the Licensing Sub-Committee held 15 February 2011 be received and noted (attached as Appendix # to the minutes).

13. **EXEMPT MINUTES OF LICENSING SUB-COMMITTEE HELD 11 MARCH 2011**  
(Report LR362 refers)

RESOLVED:

That the exempt minutes of the Licensing Sub-Committee held 11 March 2011 be received and noted (attached as Appendix # to the minutes).

14. **VOTE OF THANKS**

As this was the last meeting in current Municipal Year, the Chairman thanked Members and officers who had contributed to the Committee's work and the Chairman's thanks were reciprocated accordingly by all those present.

The meeting commenced at 6.30pm and concluded at 8.45pm

Chairman