

## **LICENSING AND REGULATION COMMITTEE**

**25 January 2011**

**Attendance:**

Councillors:

Jackson (Chairman) (P)

Baxter (P)

Fall (P)

Hammerton (P)

Izard (P)

Love

Mason (P)

Mather (P)

Pearce

Prowse (P)

Read (P)

Thynne (P)

Wright (P)

**Others in Attendance who addressed the Committee:**

Councillor Verney

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1. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee, held on 1 December 2010, be approved and adopted.

2. **PUBLIC PARTICIPATION**

During public participation, Councillor Verney suggested that the Council should limit what he considered to be the excessive number of taxis which were capable of transporting disabled passengers, because he considered that this had unnecessarily increased costs for drivers and, therefore, fee-paying passengers.

Following debate, the Committee did not support this view as they noted that, to comply with the Disability Discrimination Act, any new taxi licence had to be for a wheelchair compatible vehicle. However, there remained 48 licences for ordinary saloon cars that were granted before the Act and the Council's 1993 change in policy. The Committee also noted that any move to limit the number of new licences issued (which was itself against Government guidance) would require a costly unmet-demand survey.

3. **MINUTES OF LICENSING SUB-COMMITTEE HELD 22 NOVEMBER 2011**  
[\(Report LR350 refers\)](#)

The Committee agreed that the minutes should be amended to distinguish between Mr Calvin Collymore who was the premises licence holder for

Bar3One (Report LR345 refers) and Mr Karl Collymore who was the premises licence holder for Mikiki Lounge (Report LR344 refers).

RESOLVED:

That, subject to the above amendment, the minutes of the Licensing Sub-Committee held 22 November 2010 be approved and adopted (attached as Appendix A to the minutes).

4. **MINUTES OF LICENSING SUB-COMMITTEE HELD 21 DECEMBER 2010 (LESS EXEMPT APPENDIX)**  
[\(Report LR351 refers\)](#)

RESOLVED:

That the minutes of the Licensing Sub-Committee held 21 December 2010 be approved and adopted, less exempt appendix (attached as Appendix B to the minutes).

5. **STATEMENT OF LICENSING POLICY WITH RESPECT TO HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES, DRIVERS AND PRIVATE HIRE OPERATORS**  
[\(Report LR331 refers\)](#)

The Head of Legal Services introduced the Report and highlighted to Members the significant changes over the existing range of policies.

The changes included the new penalty points system for drivers and Members noted that the draft list of breaches and points would be considered by the taxi trade at a meeting with officers on 8 February 2011. Members noted that, if a driver was continually just under the 12 points threshold which would trigger a review of the licence by the Sub-Committee, officers would take a pragmatic view as to whether the driver was a fit and proper person to hold a licence. In these circumstances, the matter could be referred to the Sub-Committee either on the renewal application, or with a view to considering revocation on the grounds that the driver was no longer fit and proper. The Head of Legal Services explained that at the review, the presumption would be that the licence should be revoked, unless the driver was able to demonstrate otherwise.

During the Committee's consideration of the driver's criminal convictions policy, a Member suggested that any conviction against a driver that occurred whilst they working as a taxi driver should result in an immediate removal of their licence. However, following debate, the Committee agreed not to vary from the current practice, whereby there was no distinction between whether offences were committed on or off duty, as both were potentially equally serious. The Committee also noted that officers were informed of any charges against drivers licensed by the Council through the Police (although there were often delays with this procedure) or by other drivers. In addition, the new policy required drivers to inform the Council within 7 days of any arrest,

conviction or charge and the Head of Legal Services would be given powers to immediately revoke a licence in appropriate circumstances without need to refer to the Licensing Sub-Committee.

Following debate, the Committee congratulated the officers and the Taxi Working Party for their work on the Report and agreed the recommendations as set out, subject to delegating to the Head of Legal Services (in consultation with the Chairman) minor amendments to the draft Policy, before publication for consultation.

The minor amendments included changes to:

- Section 5 – Hackney Carriage Vehicles – That all new hackney carriage vehicles must be wheelchair compatible, except in cases where the vehicle is to replace an existing saloon vehicle which is already licensed.
- Section 6 – Private Hire Vehicles – (d) In exceptional circumstances these age limits may be waived. For example, for a classic car or an executive vehicle in exceptional condition.
- Section 9 – Hackney Carriage and Private Hire Driver’s Criminal Convictions Policy – to clarify that paragraph 10.4, drunkenness, did not relate to drink-driving; that the number of convictions be specified as two or more which could necessitate a *clinical* examination.
- Criminal Convictions Table of Offences – to include indecent assault on males over 16 years old.
- Paragraph 14.4 - the primary objective of the penalty points scheme is to improve the levels of compliance and help improve standards, and to ensure the safety and protection of the travelling public.
- Penalty Points Table – to include leaving a vehicle unattended on a taxi rank.  
Breach 50: to be amended to “Failure to carry a legal spare wheel and tools or the equivalent re-inflation device”

RESOLVED:

1. That the draft Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers and Private Hire Operators attached at Appendix 2 be approved for publication as a consultation draft with the taxi trade and other relevant partners, subject to any minor amendment by the Head of Legal Services (in consultation with the Chairman).

2. That the consultation process for the draft Licensing Policy set out in Section 4 of this Report be agreed.

3. That in the event of no representations being received, that the draft Licensing Policy be adopted as the Council's Statement of Licensing Policy with Respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators with effect from 1 April 2011.

4. That the Scheme of Delegation be amended to allow Head of Legal Services to revoke Hackney and Private Hire Vehicles, Driver and Private Hire Operator licences.

6. **SEX ESTABLISHMENTS – POLICY, FEES AND DELEGATION ARRANGEMENTS**  
[\(Report LR353 refers\)](#)

The Head of Legal Services confirmed that there had been no responses during the consultation period on the above Policy. In response to a Member's question, the Head of Legal Services confirmed that, for the reasons set out, it was considered appropriate to set at nil the number of sex establishments within the District. He also explained that, provided any application which was received was properly and fairly considered, the risk of a successful challenge by judicial review from an aggrieved applicant was low, especially given the fact that the consultation exercise had been carried out.

The Committee therefore agreed the recommendations as set out and the recommendations for Council as below.

**RECOMMENDED:**

**1. THAT AMENDMENTS TO THE COUNCIL'S CONSTITUTION AS SET OUT IN APPENDICES 1 AND 2 TO REPORT LR353 (RESPONSIBILITIES FOR FUNCTIONS AND SCHEME OF DELEGATION) BE APPROVED, TO GIVE EFFECT TO THE IMPLEMENTATION OF SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009 (LICENSING OF SEX ESTABLISHMENTS).**

**2. THAT THE DRAFT SEX ESTABLISHMENT LICENSING POLICY SET OUT IN APPENDIX 5 TO REPORT LR 353 BE ADOPTED**

**RESOLVED:**

1 That the procedures for dealing with applications and hearings pursuant to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 regarding the licensing of Sex Establishments as proposed in Appendices 1 and 2 be agreed.

2 That the fees for applications pursuant to Schedule 3 of the 1982 Act in respect of the licensing of Sex Establishments be as set out in Appendix 3.

3. That the Head of Legal Services be authorised to determine the forms and procedures for applications for a licence for a Sex Establishment.

7. **FEES AND CHARGES 2011/12**  
[\(Report LR352 refers\)](#)

The Committee considered the introduction of the three-year licence for hackney carriage and private hire drivers and noted that the facility would be made available to any driver on renewal of their current, yearly licence, where this coincided with the Criminal Bureau Records check.

RESOLVED:

1 That the Head of Legal Services be authorised to give public notice of the proposed increases in hackney carriage/private hire vehicle and operators' licences as set out in Appendix 2 to come into effect on 1 April 2011 if the Head of Legal Services considers that there are no material objections, and in the event of material objections being received, the matter be brought back to the Committee.

2. That the Head of Legal Services be authorised to increase fees and charges for other licensing functions with effect from 1 April 2011, as set out in Appendices 3 and 4.

8. **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 21 December 2010	) 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) ) )

9. **EXEMPT MINUTES OF LICENSING SUB-COMMITTEE HELD 21  
DECEMBER 2010**  
(Report LR351 refers)

In response to a question from Councillor Verney, the Head of Legal Services explained a detail within the Report which was considered by the Sub-Committee in their determination of the Review.

RESOLVED:

That the exempt minutes of the Licensing Sub-Committee held 21 December 2010 be approved and adopted (attached as Appendix ### to the minutes).

The meeting commenced at 6.30pm and concluded at 9.00pm

Chairman