

LICENSING & REGULATION COMMITTEE

Thursday, 19 September 2019

Attendance:

Councillors

Bentote (Chairperson)

Green
Achwal
Clementson
Cook
Gemmell

Gordon-Smith
Laming
Mather
Williams

Apologies for Absence:

Councillor Fern

1. **DISCLOSURES OF INTERESTS**

There were no disclosure of interests provided.

2. **MINUTES**

RESOLVED:

That the minutes of the meeting of the Committee, held on 6 June 2019, be approved and adopted.

3. **PUBLIC PARTICIPATION**

There were no statements made from members of the public on issues relating to the responsibility of the Committee.

4. **REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY - PHASE 1 - TIP TOP TAXI CONSULTATION**

(Report LR527)

The Committee considered the report which updated members following the end of the consultation period for Phase One of the review of the Hackney Carriage and Private Hire Policy. The report recommended one minor amendment to the Policy regarding section 8.6, "Safeguarding".

The Senior Licensing Officer reported that all licence holders were consulted on the proposed changes to the Policy between the 17th June 2019 and 31st July 2019. One representation had been received from a Private Hire Operator

licensed by the council who had suggested a change to the draft Policy. Officers advised that national guidance was that ancillary staff should be required to have a basic Disclosure and Barring Service (DBS) check. In addition, Officers had added to this proposal for a requirement that ancillary staff should also receive Safeguarding training. However, the consultation response had expressed concern that this would delay Operators' ability to recruit staff if it was to be required as a condition of their operator licences.

Officers had reviewed this representation and had reconsidered their proposed, additional condition and had concluded that as the particular safeguarding training was designed for Hackney Carriage and Private Hire drivers, that they now recommended the removal of this proposed, additional condition.

Members considered the points made and agreed that this was a sensible proposal.

RESOLVED:

1. That Licensing and Regulation Committee approved the proposed amendment to the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators. The reason for this change is outlined in section 12 of the report.

2. That Licensing and Regulation Committee approved the removal of the words underlined and highlighted in red from the previously proposed wording of the revised Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators at paragraph 8.6 Safeguarding below:

3) That Licensing and Regulation Committee agreed to refer the amended Statement for consideration of adoption by Cabinet.

8.6 Safeguarding

a All Operators licensed before 25 February 2019 and their employees who act as an operator on their behalf must pass the Council's approved safeguarding training no later than 31 October 2019. Failure to do so will result in their Licence being suspended or revoked or not being renewed. The pass certificate must be provided with the application to renew a hackney carriage and/or private hire driver's licence.

b All Drivers, Operators and their employees who act as an operator on their behalf will be required to update their safeguarding training upon the Council's request using a

Safeguarding Training Provider/assessment approved by the Council.

5. **REVIEW OF PRIVATE HIRE OPERATOR LICENCE CONDITIONS**

(Report LR526)

The Committee considered the report which updated members with proposed changes to the Private Hire Operators' Licence Conditions specifically in relation to where bookings could be taken by a licensed Private Hire Operator.

The Senior Licensing Officer advised that a change in the interpretation of the Law regarding Private Hire Operators meant that operators could only invite or take bookings from a physical location inside the district of their Licensing Authority. In practice this meant that any operator who took a booking inside another local authority area or areas must be licensed by that local authority.

All current Private Hire Operator licence holders affected by this change were formally notified in writing on 16 July 2019 and were being provided with a reasonable period of time to make any necessary changes to their working practice. All licence holders would be directly consulted between the 1 October 2019 and 10 November 2019. The changes required were for current Private Hire Operators to provide an operating address inside Winchester City Council's district, from where provision was made to invite or accept bookings, or provide records that show that all such bookings were taken whilst inside Winchester City Council's district. Alternatively, the operator may apply for a Private Hire Operators' Licence from their "home" local authority.

The Committee raised a number of detailed questions, which officers responded to, in relation to the following points:

- Would this change have a significant impact on the number of vehicles available in the District? Officers replied that they had assessed the potential effect and they did not foresee a significant impact.
- Were Operators able to use technology that would give the appearance of taking a booking within the District whilst in reality it was being diverted elsewhere? Officers advised that Operators would have to demonstrate that the location that they were taking a booking from was within the Council's area.
- In response to a final question, Officers confirmed that if any comments were received as part of the consultation exercise then they would be brought back to this Committee.

RESOLVED:

1. That the amended Private Hire Operators' Licence Conditions at Appendix 1 be agreed and approved for consultation with the taxi and private hire trade.
2. Where comments are received following consultation, that these are considered by Members at the Licensing and Regulation Committee on 5 December 2019.
3. If no comments are received following consultation, that Members delegate to the Service Lead for Public Protection power to implement the amended Private Hire Operator's Licence Conditions within a reasonable time.

6. **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON 6 JUNE 2019**

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 6 June 2019 be received and noted.

7. **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON 10 JUNE 2019**

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 10 June 2019 be received and noted.

8. **MINUTES OF THE LICENSING SUB COMMITTEE HELD ON 30 JULY 2019**

The Service Lead - Public Protection advised the Committee that an email had been received from a member of the public who had attended the meeting of the 30 July 2019. The email was read out in full to Members and officers sought the Committee's views on any action to take.

Following discussion, the Committee felt that whilst they did not disagree with the accuracy of the contents of the email they also considered that the minutes of the Sub Committee meeting were not intended to be a verbatim record of the meeting and were a summary of the proceedings. The Committee agreed that for completeness it was appropriate for the email to be replicated in full in these minutes (see below).

From: David Pain
Sent: 22 August 2019 15:18
To: Claire Buchanan

Subject: Re: Licensing Sub-Committee: 30 July 2019

*I have noted that the Council's website now has **draft minutes**. Please will you confirm when **approved minutes** will be published?*

I wish to comment on these omissions in the draft minutes although the absence of both paragraph and page numbering makes cross-referencing difficult:

1. As soon as Ms Tetsall had answered the Chair's query about whether or not it was permissible for the sub-committee to delegate the decision to the police silver commander, Miss Stefanzcuk clarified that Council officers had not been party to discussions between the applicant and the police about this aspect.

2. In respect of my statement which I read out (please see attached copy, bottom of page 3/top of page 4), I made specific reference to the most recent version of the Revised Guidance issued by the Home Office in 2018 under section 182 of the Licensing Act 2003 and I quoted that:

2.1 in clause 9.43 it is stated "The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve."

2.2 in clause 9.44 the crucial importance of evidence is emphasised by the sentence "The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination."

I request that these omissions are rectified in the draft minutes before approval and I look forward to your early confirmation that this will be done.

Kind regards,

David Pain

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 30 July 2019 be received and noted.

9. **MINUTES OF THE LICENSING SUB COMMITTEE, 21ST AUGUST, 2019**

Councillor Green who had been the Chairperson for the Sub Committee meeting held on the 21 August 2019 requested an amendment be made to the minutes. Councillor Green asked that the minutes be altered to reflect that he had specifically used the word "regretful" when the Sub Committee were

advising the applicant that a counter-notice to their Temporary Event Notice would be issued with the effect that their event could not take place. This amendment was agreed by the Committee.

RESOLVED:

That subject to the above, the minutes of the Licensing Sub-Committee held on 21 August 2019 be received and noted.

The meeting commenced at 6.30 pm and concluded at 6.55 pm

Chairperson