

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING COMMITTEE**

**MONDAY 11TH NOVEMBER 2024, AT 6.00 P.M.**

PRESENT: Councillors J. Elledge (Chairman), S. Ammar, S. M. Evans, D. J. A. Forsythe, D. Hopkins, C.A. Hotham, B. Kumar, R. E. Lambert and P. M. McDonald

Officers: Mrs. V. Brown, Mr. D. Etheridge and Mrs. P. Ross

11/24 **ELECTION OF VICE-CHAIRMAN**

**RESOLVED** that Councillor C. A. Hotham be elected Vice-Chairman of the Committee for the remainder of the municipal year.

12/24 **APOLOGIES**

Apologies for absence were received from Councillors J. Clarke, A. M. Dale, H. J. Jones, and S. Robinson.

13/24 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

14/24 **MINUTES**

The minutes of the Licensing Committee meeting held on 22<sup>nd</sup> July were submitted.

**RESOLVED** that the minutes of the Licensing Committee meeting held 22<sup>nd</sup> July 2024, be approved as a correct record.

15/24 **REVISED STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005 - CONSIDERATION OF RESPONSES RECEIVED TO THE CONSULTATION**

Following on from the Licensing Committee meeting held on 25<sup>th</sup> March 2024, whereby Members approved the draft revised Statement of Principles for the purpose of consultation; Members were now being asked to consider the responses received to the consultation.

The Principal Officer (Licensing) Worcestershire Regulatory Services (WRS) reminded the Committee that the Council's current Statement of

Principles under the Gambling Act 2005 had taken effect on 31<sup>st</sup> January 2022. In accordance with the provisions of the Act, the Council was required to prepare and publish a Statement of Principles every three years. As a result, a new Statement of Principles must be published by 31<sup>st</sup> January 2025.

Section 349 of the Gambling Act 2005 required that the licensing authority produced, consult on and published a Statement of the Principles that it proposed to apply when exercising its functions under the Act.

The Act also required that the Statement of Principles be kept under review and re-published at least every three years.

When preparing a Statement of Principles, the Council was required to consult with:-

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

In April 2023 the government published a long-awaited white paper entitled "High Stakes: Gambling Reform for the Digital Age." The White Paper sets out the government's plan for reform of gambling regulation, following the review of the Gambling Act 2005 that was first launched in December 2020.

The white paper contained a number of proposals for reforming gambling regulation in the following areas:

- Online protections – players and products
- Marketing and advertising
- The Gambling Commission's powers and resources
- Dispute resolution and consumer redress
- Children and young adults
- Land-based gambling

Whilst many of the proposed reforms were not directly relevant to the role that the Council played in the regulation of gambling activities, there were some proposed changes that were directly relevant. These included:

- Proposals to relax the rules on the split of low and medium maximum stake machines in certain licensed gambling premises.
- A review of the premises licence fees cap for local authorities.
- Introducing new powers to local authorities to conduct cumulative

- impact assessments for gambling premises.
- Proposals to change the rules that allow under 18s to play Category D gaming machines that pay cash prizes.
  - Proposals to make provisions within the Gambling Commission's code of practise on the siting of gaming machines in licensed premises legally binding.

At this stage however, it was unclear when the government would bring forward the required legislation to implement the proposed reforms.

The consultation on the revised draft Statement of Principles had taken place with all relevant parties including:

- The Chief Officer of West Mercia Police
- The Gambling Commission
- All other responsible authorities identified under the Act
- Relevant Trade Associations
- Public Health
- Organisations working with people who are problem gamblers
- Parish Councils
- The general public

The Principal Officer (Licensing), WRS further informed Members that the consultation exercise on the draft Statement of Principles was carried out between 5<sup>th</sup> July 2024 and 16<sup>th</sup> August 2024.

The consultation was also made available for comment via the Council's website and publicised via social media.

The Operations Manager of the Lotteries Council had responded to the consultation to say that they had reviewed the draft Statement of Principles and had no comment to make.

A Bromsgrove District Councillor had also responded to the consultation and had confirmed that they had no comments to make.

No other responses were received during the consultation period, which officers consider was unsurprising given the minimal changes that were being proposed to the existing Statement of Principles.

In light of the lack of responses, officers did not believe that any further amendments needed to be made to the draft Statement of Principles, as consulted on.

Therefore, Licensing Committee Members were asked to consider the responses received and to recommend to Council that the draft Statement of Principles, as detailed at Appendix 1 to the report, be approved and published with effect from 31st January 2025.

**RECOMMENDED that**

- a) the revised Statement of Principles, as detailed at Appendix 2 to the report, be approved; and
- b) the Statement of Principles be published by 31st January 2025.

16/24

### **RENEWAL OF LICENCES FOR VEHICLES PREVIOUSLY WRITTEN OFF - CONSIDERATION OF RESPONSES RECEIVED TO THE CONSULTATION**

The Principal Officer (Licensing), Worcestershire Regulatory Services (WRS) reminded Licensing Committee Members that the Committee had previously directed officers to carry out a short, targeted consultation exercise with a view to resolving an issue that had arisen for the hackney carriage and private hire trade in Bromsgrove; following the Council adopting a new Hackney Carriage and Private Hire Licensing Policy on 1st September 2022.

The Council had implemented a new Hackney Carriage and Private Hire Vehicle Policy with effect from 1st September 2022, which was later amended with effect from 1st April 2023.

The policy contained requirements in respect of the licensing of vehicles to be used as a hackney carriage or private hire vehicle, as detailed at Appendix 1 to the report.

During the Licensing Committee meeting held on 11th November 2024, Members were informed that one of the changes that the new policy had introduced was a stipulation that the Council would no longer licence any vehicle to be used as either a hackney carriage or private hire vehicle if it had been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes.

Paragraphs 3.1.10 and 3.2.10 of the policy sets this out in respect of those vehicles being licensed by the Council to be used as a hackney carriage or private hire vehicle for the first occasion.

The new policy stated that the Council would also not renew any licence to use a vehicle as a hackney carriage if the vehicle has been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.3.11 and 3.4.11 of the policy being the relevant paragraphs in the policy.

The wording currently used in paragraphs 3.3.11 and 3.4.11 of the policy meant that vehicles that were licensed before the new policy had taken effect, and were previously graded as a Category A, Category B or Category C or Category S write-off, would no longer comply with the Council's policy, even though vehicle had been licensed for a number of years without any issues arising.

The consultation exercise took place between 13th August 2024 and 27th September 2024. As well as being sent to licence holders by email, the details of the consultation exercise were also sent to:

- West Mercia Police
- Police and Crime Commissioner
- Worcestershire County Council – School Transport
- Community Safety
- Bromsgrove Depot Management
- National Taxi and Private Hire Trade Associations

The consultation was undertaken using an online survey tool. The background to the consultation exercise was set out and then two short questions were asked. The questions asked and the responses received were summarised in Appendix 3 to the report.

Responses were received from a variety of respondents including licensed drivers, Councillors and members of the public. Responses were also received from the Police and the National Private Hire and Taxi Association (NPHTA). With the majority of respondents (78.6%) agreeing with the Council amending the wording contained in Paragraphs 3.3.11 and 3.4.11 of the Council's Hackney Carriage and Private Hire Vehicle Policy.

Members were now being asked to consider the results of the consultation exercise and if a minor amendment to the Hackney Carriage and Private Hire Licensing Policy should be made to the wording contained in paragraphs 3.3.11 and 3.4.11 of the policy. Officers had proposed alternative wording, as detailed at Appendix 2 to the report.

Officers believed that the amended wording would mean that anyone who had licensed a vehicle prior to the implementation of the new policy (in September 2022) would still be able to continue using the vehicle as a hackney carriage or private hire vehicle for as long as it complied with the Council's other requirements, even if the vehicle was graded as a Category A, Category B or Category C or Category S write-off when it had first been licensed.

The Principal Officer (Licensing), WRS responded to a number of questions from the Committee and in doing so stated that any vehicles one they reached their natural end of life would need to be replaced; or even replaced earlier if the vehicle was expensive to maintain. The tests carried out at the Council's depot were very rigid.

Worcestershire County Council, Worcestershire Taxi Driver Training involved a day of training. Applicants must sit and pass a written multiple-choice test. The training covered a number of subjects, which included:-

- Safeguarding

- Licence Conditions
- Vehicle Conditions
- Customer Safety and care
- Disability Awareness

**RESOLVED** that

- a) paragraphs 3.3.11 and 3.4.11 of the current Hackney Carriage and Private Hire Licensing Policy be amended, as detailed at Appendix 2 to the report; and
- b) the draft Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 4 to the report (with the amended paragraphs) be approved to take effect from 12th November 2024.

17/24

**REVIEW OF HACKNEY CARRIAGE TABLE OF FARES**

Members received a report on the review of Hackney Carriage Table of Fares.

The Principal Officer (Licensing) Worcestershire Regulatory Services (WRS) informed the Committee that the Council had responsibility under the Local Government (Miscellaneous Provisions) Act 1976, for setting the maximum fares that can be charged by hackney carriage vehicles licensed to operate within the district. It was considered good practice to review the table of fares on a regular basis.

Hackney Carriage (“Taxi”) fares were made up of an initial hiring charge and a “mileage” rate, both of which are expressed in terms of distance and / or time per unit cost. This was because when a hired taxi was stationary or moving slowly in traffic the meter continues charging, but by time, instead of distance.

Fuel costs did reach a high level, however fuel prices were now coming down and had returned to more normal levels of pricing.

According to data from the Department for Energy Security & Net Zero, the average price per litre of ultra-low sulphur petrol and ultra-low sulphur diesel in the week when the existing table of fares took effect was:

	<b>Pence per litre</b>
Ultra-low sulphur petrol	165.62p
Ultra-low sulphur diesel	189.79p

According to the same data, the average price per litre of ultra-low sulphur petrol and ultra-low sulphur diesel at the time this report was prepared was:

	<b>Pence per litre</b>	<b>Change</b>
Ultra-low sulphur petrol	134.41p	↓ 18.8%
Ultra-low sulphur diesel	139.71p	↓ 26.4%

During this annual review of fares, officers did approach the taxi trade, and unfortunately a response was not received from Bromsgrove Taxi Association. Hackney carriage drivers currently were not looking to increase their fares, however, should they require a further review in 12 months' time or earlier, officers would assist.

The Principal Officer (Licensing), WRS responded to questions from the Committee and in doing so clarified that drivers licensed by other authorities would use their table of fares. Private Hire drivers did have a reputation all over the Country for under cutting hackney carriage fares. The licensing of hackney carriages was declining and applications for private hire licences were increasing. Hackney carriage maximum fares were set and most hackney carriage drivers would have and use meters with set tariffs. However, they were still able to charge less if they wanted to, they would still have to run their meter, but they could still offer passengers a discount. The difficulty for hackney carriage drivers was their running costs and the level of competition, hence no fare increase being asked for.

The Principal Officer (Licensing), WRS further explained the tariffs applicable for journeys of up to four passengers and where there were five or more adult passengers.

**RESOLVED** that the report on the Review of Hackney Carriage Table of Fares, be noted.

18/24

## **BUSINESS AND PLANNING ACT 2020 - CONSULTATION ON DRAFT POLICY ON PAVEMENT LICENSING**

Members received an update on the Business and Planning Act 2020 consultation on the draft Policy on Pavement Licensing.

The Principal Officer (Licensing), WRS explained that Members had previously approved a draft Policy on Pavement Licensing for the purpose of consultation with relevant stakeholders and were now being asked to consider the responses received during the consultation exercise, and to approve and adopt a finalised Policy on Pavement Licensing.

In July 2020, the Business and Planning Act 2020 was enacted. The legislation was expedited through Parliament to make provisions relating to the promotion of economic recovery and growth as the country emerged from various restrictions that were put in place in response to the global Covid-19 pandemic.

The legislation was put in place very quickly and was commenced as soon as it was enacted. That meant that there was very little time available to put in place policies and procedures for dealing with applications.

Worcestershire Regulatory Services agreed to take on the temporary pavement licensing functions on behalf of the Council as they were best placed to do so given that they already carried out functions on the Council's behalf under the Licensing Act 2003.

The provisions in part 1 of the Business and Planning Act 2020 were originally only intended to remain in place for a temporary period, and section 10 of the Act originally stated that the provisions would expire at the end of 30 September 2021.

However, the temporary regime was subsequently extended on three separate occasions before a decision was taken to make it a permanent licensing regime. The regime was made permanent on 31 March 2024 by virtue of the commencement of provisions made in the Levelling Up and Regeneration Act 2023.

Now that the pavement licensing regime had been made permanent, it was necessary to review and revise the Council's Policy on Pavement Licensing to ensure that it was fit for purpose and reflected the amendments made to the regime since it was first introduced.

A draft Policy on Pavement Licensing was prepared by officers and presented to Members at the Licensing Committee meeting held on 22nd July 2024. The draft policy was based on a template that had been created to form the basis for similar policies across all six district Councils in Worcestershire.

The draft policy was drafted with reference to the guidance on pavement licences published by the Department for Levelling Up, Housing and Communities (DLUHC) on 2nd April 2024 under section 8 of the Business and Planning Act 2020.

The draft policy sets out how people applied for a licence, how those applications would be advertised and consulted upon and how they would be determined. The draft policy also sets out the standard duration of licences and the conditions that licences were granted or deemed to have been granted, would be subject to.

The draft policy further detailed the approach to be taken in respect of compliance and enforcement activities in respect of the pavement licensing regime.

Members of the Licensing Committee approved the draft Policy on Pavement Licensing for the purpose of consultation with relevant stakeholders, subject to some minor amendments. These included the



inclusion of Parish Councils in the list of those who would be consulted with on applications received.

The consultation exercise was undertaken between 12th August 2024 and 25th October 2024. The consultation exercise was facilitated using an online survey tool that asked respondents for their views and suggestions in respect of the items shown at paragraph 3.22 on page 182 of the main agenda pack.

The consultation survey was sent to the following:

- Highway Authority – Worcestershire County Council
- West Mercia Police Licensing Team
- Hereford and Worcester Fire & Rescue Service
- Environmental Health (WRS)
- Centres Manager for Bromsgrove District Council
- Planning Department at Bromsgrove District Council
- Worcestershire Safeguarding Children Partnership
- Director of Public Health (Worcestershire County Council)
- Trading Standards (Worcestershire County Council)
- Engagement, Equalities and Policy Team at Bromsgrove District Council
- Sensory Impairment Team at Worcestershire County Council
- District Councillors
- Parish Councils
- Representative bodies of local businesses
- National trade bodies for hospitality businesses
- Local and national representative bodies for those with disabilities
- Those who held or had applied for pavement licences from the Council previously.

A link to the consultation survey was also hosted on the consultations page of the Council's website and publicised via social media channels.

In total nine people responded to one or more of the questions asked in the consultation survey, although only four respondents chose to answer every question. A summary of the responses received was included in Appendix 1 to the report.

Whilst there were only a small number of responses received, the majority of respondents agreed with:

- The process proposed for those applying for grant of a pavement licence
- The process proposed for those applying for the renewal of a licence
- The list of those who will be consulted on applications
- The approach to be taken when determining applications
- The granting of licences for a period of two years
- The list of standard conditions for pavement licences

- The proposed approach to compliance and enforcement

One respondent suggested that letters should be sent to residential addresses when an application was received. Officers did not believe that this was necessary as the applicant had to display a public notice at the premises. The costs and time constraints involved also made this something that officers could not support.

One respondent suggested that licences should be issued for one year at a time, with another suggesting they should be granted indefinitely. The relevant legislation did not permit a licence to be granted for more than two years.

Officers believed that granting licences for the maximum two-year period would reduce administrative and financial burdens on businesses and the licensing authority.

Members were reminded that the licensing authority had the power to revoke licences where circumstances justified such a decision.

One respondent also suggested that small local businesses should be allowed to place a small amount of furniture adjacent to their property (not on the highway) without a licence. Members were further reminded that no pavement licence was required if the furniture concerned was not being placed on part of a relevant highway.

Having considered the responses received during the consultation exercise, officers were of the opinion that the Council did not need to make any further amendments to the draft Pavement Licensing Policy that was consulted upon.

Therefore, Members were being asked to approve and adopt the draft Policy on Pavement Licensing, as detailed at Appendix 2 to the report; and to take effect immediately.

Members raised a number of questions with regards to the cost of such a licence, who determined if an area was on the Highway and compliance and enforcement.

The Principal Officer (Licensing), WRS in response stated that any fees would need to be ratified by Full Council at the fees and charges setting process. The fees currently would be:-

- £500 for the granting of a pavement licence.
- £350 for the renewal of a pavement licence.

Any businesses that already held a pavement licence could apply for a two year licence once their current licence had expired.

There was a brief reference to the Highways Act 1980. Officers would look at each application case by case. Worcestershire County Council, Highways had specific maps (which were included on their website), as to the areas whereby curtilages were deemed to be on the highway. It was not always abundantly clear to businesses if the area outside of their premises was deemed as being on the highway, hence the reason why officers liaised closely with WCC Highways and businesses as to whether a pavement licence was actually required or not.

With regards to compliance and enforcement, Members were informed that compliance and enforcement officers would look to 'fact find' before engaging with businesses on any non-compliance issues and a staged approach to any possible enforcement action.

**RESOLVED** that the draft Policy on Pavement Licencing, as detailed at Appendix 2 to the report, be approved and adopted with immediate effect.

19/24

### **TERRORISM (PROTECTION OF PREMISES) BILL (MARTYN'S LAW) - VERBAL UPDATE**

Members received a verbal update from the Principal Officer (Licensing), Worcestershire Regulatory Services (WRS), on The Terrorism (Protection of Premises) Bill (Martyn's Law).

At the Licensing Committee meeting held on 7<sup>th</sup> August 2023, Members received an information report on the Terrorism (Protection of Premises) draft Bill "Martyn's Law" which had been published in draft form by the Government to allow for pre-legislative scrutiny of the legislation by the Home Affairs Select Committee.

The Terrorism (Protection of Premises) draft Bill was in response to the twenty-two people who were killed, and the hundreds of others injured, in a terror attack at the end of a concert taking place at the Manchester Arena in 2017.

The Government launched a public consultation in February 2021 on proposals to bring in legislation to implement a "Protect Duty" to ensure that those responsible for publicly accessible locations were ready and prepared to take appropriate action, were a terrorist attack to happen.

The "Protect Duty" had also become widely known as "Martyn's Law" in tribute to Martyn Hett who lost his life in the Manchester Arena attack.

Alongside its consultation response document, the Government published a draft version of the Terrorism (Protection of Premises) Bill.

The first reading of the Bill took place on 12<sup>th</sup> September 2024, with the second reading on 14<sup>th</sup> October 2024. The Bill was now proceeding through the Committee stage.

Members were reminded that qualifying public premises may be located within other premises, such as a retail store within a shopping centre. The requirements would not apply to premises (or parts thereof) that were used as private dwellings or offices.

Qualifying public premises may be either standard duty premises or enhanced duty premises. Enhanced duty premises were those with a public capacity of 800 individuals or more. A Standard tier premises initially applied to those with a capacity of more than 200 people but under 800. This had now been changed to a capacity of more than 300 people but under 800. An Enhanced tier premises would apply to premises with a capacity of more than 800 individuals.

Clarification had been given as to who would be 'The Regulator.' The regulator would be the Security Industry Authority (SIA) who would primarily provide a guidance function for businesses; and also have the ability to impose a range of civil sanctions which would be utilised to address non-compliance. However, local authorities would still have a role to play.

Going forward, the Bill would help to mitigate possible terrorist attacks.

**RESOLVED** that the verbal update on The Terrorism (Protection of Premises) Bill (Martyn's Law) be noted.

20/24

**FREQUENTLY ASKED QUESTIONS (FAQ) COUNCIL'S WEBSITE, LICENSING PAGES - VERBAL UPDATE**

Members received a verbal update on including Frequently Asked Questions (FAQ) on the licensing pages of the Council's website.

The suggestion of FAQ had come about following a report presented to Members at the Licensing Committee meeting held on 22<sup>nd</sup> July 2024, on the proposed changes to the Council's Hackney Carriage and Private Hire Vehicle Policy, 1st September 2022, in respect of vehicles previously written off.

During that meeting, Members had asked that following the consultation responses received to the proposed changes to the Council's Hackney Carriage and Private Hire Vehicle Policy, with regards to vehicles previously written off; could information on the changes, if approved by the Committee, be included on the Council's website licensing pages, under 'Frequently Asked Questions (FAQ)'.

The Principal Officer (Licensing), WRS had agreed to scope this and had stated that the Council's Hackney Carriage and Private Hire Licensing Policy was a lengthy and detailed document, so it could prove useful to look at condensing the contents into salient points, including any policy changes, and also questions that WRS licensing officers were frequently asked into a FAQ section on the Council's licensing web pages.

Members felt that having this information on the Council's website licensing pages would be useful for ease of access to licensing information for applicant's, licensed drivers and operators.

The Principal Officer (Licensing), WRS informed Members that having liaised with WRS colleagues, he was made aware that officers were currently implementing an Automation Project for licensing forms to be submitted electronically (on-line). The Temporary Events Notice (TEN) form had gone live during September 2024, with other licensing forms being made available electronically during the Automation Project.

WRS colleagues working on the Automation Project had also planned to do some work alongside the electronic forms in creating a FAQ section. Once some of the specific forms, in the Automation Project schedule, e.g., Premises Licence Applications and variations etc. were embedded; WRS colleagues would move onto Taxi Applications.

There was no definite timescale for the creation of electronic forms for Taxi Applications, but officers would ensure that FAQ were included on the Council's website once the forms were embedded.

The Principal Officer (Licensing), WRS highlighted that by doing this it may also reduce the number of similar enquires that licensing officers received.

**RESOLVED** that the verbal update of Frequently Asked Questions on the Council's website, licensing pages be noted.

21/24

### **LICENSING COMMITTEE WORK PROGRAMME 2024/2025**

The Committee considered the Work Programme for 2024/2025.

**RESOLVED** that the Licensing Committee Work Programme for 2024/2025, be noted.

22/24

### **ANY ENFORCEMENT / APPEALS UPDATES**

There were no Enforcement / Appeals updates.

At this stage in the meeting the Chairman took the opportunity to inform Members that the Principal Officer (Licensing), WRS would be leaving the authority to take up a new role.

The Chairman and Members expressed their sincere thanks to the Principal Officer (Licensing), WRS.

The meeting closed at 7.06 p.m.

Chairman