

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 9TH NOVEMBER 2015 AT 6.00 P.M.

PRESENT: Councillors B. T. Cooper (Chairman), J. M. L. A. Griffiths (Vice-Chairman), M. T. Buxton, K.J. May, C. M. McDonald, S. R. Peters, S. P. Shannon, P.L. Thomas, L. J. Turner and S. A. Webb

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

17/15 **APOLOGIES**

An apology for absence was received from Councillor P. Lammas.

18/15 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

19/15 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 14th September 2015 were submitted.

RESOLVED that the minutes of the meeting be approved as a correct record.

20/15 **VERBAL UPDATE FROM THE SENIOR LICENSING PRACTITIONER, WORCESTERSHIRE REGULATORY SERVICES, ON CHILD SEXUAL EXPLOITATION AWARENESS RAISING**

At the request of the Chairman and as noted during the Licensing Committee meeting held on 14th September 2015, Members received a verbal update with regard to Safeguarding Children and the role of Licensing Officers, Worcestershire Regulatory Services (WRS) in raising awareness with licensed premises and hackney carriage and private hire drivers with regard to Child Sexual Exploitation (CSE).

The Senior Licensing Practitioner, WRS, gave apologies on behalf of the Licensing and Support Manager, WRS, who was unable to attend.

The Senior Licensing Practitioner, WRS, informed Members that following on from the recent high profile independent inquiries into CSE, in Rotherham; WRS were keen to show support and to play a key role in raising awareness of CSE and would look for every opportunity to raise awareness of CSE.

WRS were carrying out a series of awareness raising initiatives on behalf of Worcestershire County Council, Safeguarding Children Board, as detailed in their Child Sexual Exploitation (CSE) Strategy Action Plan. The action plan was a multi-agency approach which highlighted the complexity of CSE and the need to raise awareness of CSE. There were four key priorities to the action plan:-

1. Prevention and Education
2. Recognition and Identification
3. Intervention and Support
4. Pursue and Disrupt

As part of the Intervention and Support key priority, WRS were responsible and tasked to:-

- Undertake a CSE awareness raising campaign with hackney carriage
- Undertake a CSE awareness raising campaign with licensed premises in partnership with the Community Safety Partnerships District Tasking Groups.
- District Council Licensing Committee Members to be made aware of CSE responsibilities.

In line with its responsibilities under the action plan, WRS had incorporated information leaflets within its application processes in order to raise awareness of CSE amongst the licensed trade, both for premises licence holders and the taxi trade. The information leaflets were routinely added to outgoing granted licence packs. Raising CSE awareness had also been an agenda item at Taxi Forum meetings so that trade representatives could pass the relevant information onto their members. Licensing Committee Members were provided with a copy of both information leaflets.

The hackney carriage and private hire trade and licensed premises were an integral part of the local working economy. They could often be seen as the eyes and ears of the community, so raising awareness within these groups was a vital link within the action plan.

As detailed on the Licensing Committee work programme, a further in depth presentation on CSE, from the Head of Community Services, was scheduled to take place on 14th March 2016.

Further discussion followed with questions raised on how information from Worcestershire Safeguarding Children Board meetings was disseminated to Members. It was suggested that the District Councils representative on the Worcestershire Safeguarding Children Board be invited to attend the next meeting of the Licensing Committee.

The Chairman thanked the Senior Licensing Practitioner, WRS, for his verbal update, Members had welcomed the input from WRS with regard to their CSE awareness raising initiatives and involvement.

GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES - CONSULTATION RESULTS

Following on from the Licensing Committee meeting held on 8th June 2015, when Members approved for the purpose of consultation, the draft Statement of Principles; Members were asked to consider the responses received to the consultation and the changes incorporated into the draft Statement of Principles as a result of those responses.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), presented the report and in doing so informed Members that during the consultation period two responses had been received, one from Wythall Parish Council and one from the Gambling Commission. Wythall Parish Council had confirmed that they did not have any adverse comments to make. The Senior Licensing Practitioner, WRS, drew Members' attention to the response received from the Gambling Commission, as detailed at Appendix 1 to the report.

Productive meetings had taken place with WRS officers and the Gambling Commission. The Gambling Commission were more than happy with their input and their suggested changes being incorporated into the draft Statement of Principles.

Members were further informed that the suggestions made by the Gambling Commission had been incorporated into the draft Statement of Principles, as detailed at Appendix 2 to the report. These included:-

- A new section that set out the Council's intention to develop a 'Local Area Profile', as detailed in section 3.0 of the draft Statement of Principles.
- Guidance for operators on the matters that the Council believed they should consider when compiling their own local risk assessments. This will be a requirement from 6th April 2016, as detailed in section 9.0 of the draft Statement of Principles.
- Further detail in relation to the way the Council would approach its enforcement and compliance role under the Gambling Act 2005, as detailed in sections 19.6 and 19.7 of the draft Statement of Principles

In response to questions from Members, the Senior Licensing Practitioner, WRS, informed the Committee that, operators would have to assess local risks, including 'whether the premise is in an area of deprivation'. The Local Authority could then decide if any additional measures were necessary in order to protect vulnerable people who may gamble beyond their means.

In order to ensure compliance with the law the Council would prepare a risk based Inspection Programme and would carry out regular 'routine' day time programmed inspections, as detailed in sections 19.6 and 19.7 of the draft Statement of Principles.

RECOMMENDED:

- (a) that Council approve the Statement of Principles, as detailed at Appendix 2 to the report, and
(b) that the Statement of Principles be published by 31st January 2016.

22/15

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICIES - CONSULTATION RESULTS

During the Licensing Committee meeting held on 23rd March 2015, Members received a report detailing some potential changes to the Council's existing policies and procedures for hackney carriage and private hire licensing.

The Senior Licensing Practitioner, WRS, introduced the report and in doing so reminded Members that the potential changes had originated from the Bromsgrove Taxi Association and trade forums held in February and March 2015. After considering a summary of the responses to the proposals from the trade forums; Members had agreed that a formal consultation on the proposals be carried out by Worcestershire Regulatory Services.

The consultation exercise had commenced in late April 2015 and had ended on 31st July 2015. The consultation was also advertised on the Council's website and via social media channels. Further consultation was also carried out with Bromsgrove Engagement and Equalities Forum. Members' attention was drawn to section 3.7 of the report which detailed all of those consulted with. A summary of the consultation results was shown at Appendix 2 to the report.

The Senior Licensing Practitioner, WRS, further informed the Committee that a total of twenty five responses had been received; twenty four from licensed drivers / operators and one from a Traffic Management Advisor for West Mercia Police.

Members unanimously agreed that each question and the comments received to each question should be considered individually. In depth discussions took place on each question with the following being agreed:-

Questions:-

- **“The Council is considering introducing a “private hire only” licence alongside the dual hackney carriage and private hire driver licence it currently issues”.**

The licensing requirements for this new type of licence would be the same as for the dual licence, but the “knowledge test” taken would be tailored to the private hire sector of the trade only with less emphasis placed on elements of local geographic knowledge that is more relevant those licensed to drive hackney carriage vehicles.

The Council's Legal Advisor informed the Committee that this question was considered, as legislation was designed so as licences could be seen as individual licences, and not just as currently offered by the Council, as dual licences. Members should therefore consider offering applicants the

opportunity and choice to apply for either of the three licences, a hackney carriage driver licence, a private hire driver licence and a dual hackney carriage and private hire driver licence.

Members were in agreement that three types of licenses should be introduced; hackney carriage driver licences, private hire driver licences and dual hackney carriage and private hire driver licences. Private hire driver licence applicants would undertake a different knowledge test to those applicants who applied for hackney carriage or dual driver licences.

- **“The Council is considering requiring all new applicants for licences to drive Hackney Carriage and/or Private Hire vehicles to undertake a driving standards test”.**

Members were in agreement that all new applicants should undertake a driving skills assessment conducted by Worcestershire County Council, Road Safety Unit.

- **“The Council is also considering requiring all licence holders who accumulate more than six penalty points on their DVLA licence to undertake a driving standards test”.**

Members were not in agreement. It was felt that with regard to this, and as stated in the current Guidelines Relating to the Relevance of Convictions and Cautions, each case should be considered on its own individual merit. Licensing Sub-Committee Members when determining applications could, if needed, request that the licensed driver completed a driving standards test.

- **“The Council is considering requiring all new applicants for licences to drive Hackney Carriage and/or Private Hire vehicles to undertake an “essential skills” test which would cover matters such as basic mathematics, map reading, communication skills etc.”**

Members were in agreement, that both knowledge tests for private hire and hackney carriage/dual licences included a section to ensure that the ‘essential skills’ for a licence holder were in place. Following further information provided by the Senior Licensing Practitioner and the Technical Officer, WRS; Members further agreed that any applicant who failed either knowledge test on three occasions would be barred from taking the knowledge test for a further six months.

- **“The Council is considering limiting new applicants to three attempts at passing both the knowledge and essential skills tests before they are barred from attempting the tests again for six months”.**

Following information provided by the Senior Licensing Practitioner and the Technical Officer, WRS; Members agreed that any applicant who failed the knowledge tests and essential skills test after three attempts would be barred from taking the tests again for a period of six months.

- **“The Council is considering introducing a requirement that new hackney carriage vehicles entering the licensed fleet are under five years of age when first licensed. Currently a vehicle can be anything up to ten years of age when first licensed as a hackney carriage”.**

This policy change would affect both new applicants for Hackney Carriage vehicle licences and those who are replacing their Hackney Carriage vehicles for any reason.

Several questions were raised with Members agreeing that there was a need to maintain a certain standard of vehicle within the district.

The Council’s Legal Advisor reminded Members that licensed drivers whose vehicles fell outside of the Council’s Taxi Handbook policy had the opportunity to present their vehicle to a meeting of a Licensing Sub-Committee for Members to determine, following an inspection of the vehicle, if the age limit should be waived.

Members agreed that, in order to ensure that a high standard of vehicle was maintained within the district, that any new or replacement Hackney Carriage Vehicles must be under seven years old from the date of first registration on the day the application was made. Members also agreed that a review should be undertaken after two years in order to measure any impact.

- **“The Council is considering introducing a requirement that, from a specified future date, all new vehicles being licensed at Hackney Carriage Vehicles must be a wheelchair accessible vehicle (WAV). WAV means a vehicle capable of carrying a wheelchair user whilst they remain seated in their wheelchair”.**

The effect of this policy change would be to see the gradual phasing out of “saloon” type vehicles so that ten years after the Policy comes into effect all vehicles licensed by the Council to be used as Hackney Carriages should be WAVs.

Members felt that further consultation work was required in order to ascertain if there was currently an unmet demand for WAVs as Hackney Carriages within the district or if this was the perception. The replies received from the trade highlighted that there was little demand for WAVs in the district.

The Senior Licensing Practitioner, WRS, informed the Committee that members of Bromsgrove Engagement and Equalities Forum and Bromsgrove Older People’s Forum had been consulted with and that neither had responded or provided evidence that there was a demand for WAVs within the district. It was agreed that WRS licensing officers would conduct a further comprehensive consultation with relevant agencies / organisations in order to ascertain if there was a demand and if that demand was being met; also taking into account visitors accessing Bromsgrove via the railway station. The Senior Licensing Practitioner, WRS, also agreed to organise a press release in order to inform residents of the consultation.

Members also discussed the possibility of introducing incentives to encourage drivers to purchase and operate WAVs. The Senior Licensing Practitioner, WRS, agreed that licensing officers could carry out an additional consultation with the taxi trade and look at possible ways to incentivise them to purchase and operate WAVs.

In light of the outcome, as detailed in the preamble above and with regard to WAVs, the three questions that followed; in respect of policy changes relating to new Hackney Carriages being WAVs and existing licence holders "grandfather rights, were no longer relevant.

- **“Do you have any other suggestions or comments in relation to the Council’s existing policies and procedures in relation to Hackney Carriage and Private Hire Licensing”?**

Further discussion took place on the suggestions, as detailed on page 56 in the report. The Senior Licensing Practitioner, WRS, informed Members that, with regard to the suggestion of having more surgeries or longer surgeries, he was willing to consult with the taxi trade and look at additional or alternative times / days for licensing surgeries within the district.

With regard to the suggestion that the Council’s current policy needed to be reviewed in respect of providing a spare wheel and not being allowed tinted windows. The Chairman highlighted to the Committee that vehicles had been presented at recent Licensing Sub-Committee Hearings, as the vehicles had fallen outside of the Council’s Taxi Handbook policy due to no spare wheel and / or tinted windows. The Council’s Taxi Handbook stated that ‘tinted windows will not be permitted where they conceal the identity of the passenger inside’ and ‘Boot – this should be clean, tidy and empty, except for the spare wheel and essential tools’.

It was noted that new vehicles often had manufactured fitted tinted windows and / or ‘run flat’ tyres.

Further discussion followed on the possibility of WRS purchasing and using a light meter that measured the percentage of visual light transmission through tinted windows. The Council’s Legal Advisor advised Members that passenger safety was of paramount concern.

Members were in agreement that passenger safety was of paramount concern and agreed that the Council’s Taxi Handbook policy on no tinted windows remained. Members, however, also agreed that the Senior Licensing Practitioner, WRS, investigated the purchase of a light meter to determine if a more acceptable manufactured factory fitted level of tint could be set.

With regard to the issues raised in respect of ‘run flat’ tyres, Members agreed that the Council’s Taxi Handbook policy be updated to take into account wheels fitted with a suitable ‘run flat’ tyre mechanism on all four wheels, and that in the case of a ‘run flat’ tyre getting a puncture, the tyre must be replaced at the earliest opportunity or in any case on or before the maximum number of miles as recommended by the manufacture has been travelled; or another

means of conveying passengers to their destination safely and without inconvenience can be called upon.

The Chairman thanked the Senior Licensing Practitioner and Technical Officer, WRS, for the work carried out during the consultation exercise and for their valuable contribution.

RESOLVED

- (a) that the proposed changes as agreed and detailed in the preamble above, be incorporated in to the Council's Taxi Handbook and;
- (b) that the revised Council's Taxi Handbook be presented to the next meeting of the Licensing Committee for consideration.

23/15

UBER INFORMATION REPORT

As requested at the previous meeting of the Committee, Members were provided with an update from the Senior Licensing Practitioner, Worcestershire Regulatory Services, (WRS), on the company that trades as Uber.

The Senior Licensing Practitioner, Worcestershire Regulatory Services, (WRS), informed the Committee that Uber was growing rapidly and now operated in Birmingham, under Birmingham City Council's private hire operator's licence.

Uber Technologies Inc. was an American international transportation network company, with its headquarters in San Francisco, California. The company developed, marketed and operated the Uber mobile application (app), which allowed consumers with smartphones to submit a trip request which was then routed to Uber drivers. Essentially it was an online booking service for private hire vehicles.

The activities of Uber had provoked controversy in some countries. Questions were raised about the legalities of their operating model. However, it should be stressed that in the UK, Uber appeared to be operating entirely lawfully within the private hire licensing regimes.

The controversy surrounding Uber's operation in London related to the way that fares were calculated and charged to passengers who used the Uber app; and the fact that the fares were generally cheaper than those charged by London's world famous 'Black Cabs'. In London only licensed hackney carriages could use taximeters, under section 11 of the Private Hire Vehicles (London) Act 1988. Recently the transport regulator Transport for London (TfL) had brought a case to the high court following pressure from the city's black-cab and minicab drivers. But the high court ruled that Uber's app was legal in London.

The Senior Licensing Practitioner, WRS, responded to Members' questions and explained that fares were calculated via GPS. Fares were cheaper due to the number of taxis available. Uber was very streamlined. The Uber app

calculated the nearest available driver and allocated the job to that driver. Drivers paid a rental fee to Uber.

As with all licensed private hire operators, Uber could dispatch vehicles and drivers to carry out work anywhere in the country; provided that the vehicle and driver allocated the booking were licensed with the local authority that had issued the relevant private hire operator licence. Due to the relaxation on sub-contracting rules for private hire vehicles, which came into effect on 1st October 2015, Uber could also sub-contract bookings to other licensed private hire operators in other local authority areas so that, that operator could then dispatch an appropriately licensed vehicle and driver.

The Chairman and Committee Members thanked the Senior Licensing Practitioner, WRS, for his comprehensive update report on Uber.

RESOLVED that the Uber update report be noted.

24/15

LICENSING COMMITTEE WORK PROGRAMME 2015/2016

The Committee considered the Work Programme for 2015/2016.

RESOLVED that the Licensing Committee Work Programme be updated to include the items discussed and agreed during the course of the meeting.

The meeting closed at 8.15 p.m.

Chairman