

AGENDA ITEM NO 3

Minutes of a meeting of the Licensing Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Wednesday 12th December 2012 at 9.30am

P R E S E N T

Councillor Tony Goodge (Chairman)
Councillor Michael Allan
Councillor David Ambrose Smith
Councillor Tony Cornell
Councillor Lavinia Edwards
Councillor Lindsey Harris
Councillor Chris Morris
Councillor John Palmer
Councillor Charles Roberts
Councillor Sue Willows
Councillor Andy Wright

I N A T T E N D A N C E

Lin Bagwell – Licensing Officer (Enforcement)
Elizabeth Bailey – Principal Environmental Health Officer (Commercial)
Sarah Burns – Senior Legal Assistant
Liz Knox – Head of Environmental Services
Janis Murfet – Democratic Services Officer
Richard Mutimer - VOSA

33. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Allen Alderson and Sue Austen.

34. DECLARATIONS OF INTEREST

There were no interests declared.

35. MINUTES

Further to Minute No 25 (Approval of the Licensing Authority Gambling Act 205 Statement of Principles – 3 Year Revision). Councillor Wright said he assumed that the document presented to Full Council was the same as that which came to the Licensing Committee before any amendments had been made. He wished to be assured that the amendments had been made in accordance with the minuted recommendation. Whereupon,

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It was resolved:

That the Minutes of the Licensing Committee meeting held on 21st November 2012 be confirmed as a correct record and signed by the Chairman.

36. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reminded Members that there was to be a short information session giving an overview of the Licensing Team at the conclusion of the Committee meeting.

37. **STRETCHED LIMOUSINE VEHICLE LICENCE CONDITION PROPOSAL**

The Chairman welcomed Mr Richard Mutimer, Traffic Examiner for VOSA, to the meeting, saying that he was present to assist with any questions that Members might have.

The Principal Environmental Health Officer presented a report (M186), previously circulated, which proposed vehicle licence conditions for adoption relating to stretched limousines, further to a consultation exercise having been conducted.

Tabled at the meeting was a paper which set out in a more simplified format Section 5.4 of the Conditions relating to Hackney Carriage and Private Hire Vehicles in the Taxi and Private Hire Guide.

Mrs Bailey explained that with regard to concerns raised at the Committee meeting held on 18th July 2012 relating to proposed conditions tabled at that time, further advice had been sought from VOSA. As a result of this there had been some amendments. In terms of Licence Conditions 21 and 17, they had been made more generic so as not to specify a particular manufacturer or to only permit manufacturer approved replacement parts. In respect of proposed Condition 1, a recommended 10 year maximum age on import had been retained following discussion with VOSA.

(Councillor Allan joined the meeting at 9.35am).

It was noted that during the consultation process, one response was received; this was attached at Appendix 2 to the report.

Councillor Cornell noted that in the revised Condition 5 there was no mention of side facing seats being required. Mrs Bailey replied that there were no nationally approved seat belts for side facing seats, and having discussed the matter with VOSA, it was believed that this Condition would meet all eventualities.

Councillor Wright pointed out that the weight in Condition 19 should read **3.2 tonnes**. He then asked how the measurement for a stretch extension was calculated, as many of today's vehicles were purpose built, especially if they were less than 10 years old. Mr Mutimer replied, saying that vehicles had to go through a process of approval and each was judged on its own merits. Many were built to design rather than "cut and stretch", but the most commonly used upper limit to the extension was 3 metres. VOSA had not been given guidance on specific measurements, and there were also separate regulations in respect of novelty vehicles such as converted fire engines.

(Councillor Morris joined the meeting at 9.39am).

Councillor Roberts said that having read through the tabled document, he found it to be confusing because of inconsistencies in some of the terminology used. Mr Mutimer reminded Members that "limousine" was an undefined generic term, which covered a multitude of sins; however, this document focussed on stretched limousines. There was lots of legislation in place but it would only ever be as good as the people enforcing it. This draft document was a starting point regarding 8 seater vehicles, so it was important to ensure that the conditions were set in stone and correctly worded.

Referring to Condition 21, Councillor Ambrose Smith thought it should read "approved parts". Mrs Bailey replied that the wording had been suggested following a discussion with Derek Howlett, VOSA.

Councillor Wright proposed and Councillor Allan seconded that the Chairman and Councillors Roberts and Ambrose Smith should get together with officers to clarify the draft proposed conditions and then bring the revised version back to Committee.

On a point of clarification, Councillor Palmer enquired whether a licence would run for 6 or 12 months, given that the vehicle would be tested every 6 months. Mrs Bailey replied that it would be a 6 month licence. Whereupon,

It was resolved:

That the Chairman, along with Councillors Roberts and Ambrose Smith, work with officers to clarify the draft proposed Stretched Limousine Licence Conditions back to Committee for Member approval.

38. **PRESENTATION**

At the invitation of the Chairman, Elizabeth Bailey, Principal Environmental Health Officer (Commercial) gave Members a

presentation on Driver Hearings, Rehabilitation of Offenders Act, and Delegation of Powers.

Mrs Knox thought it would be useful for the Committee to have the presentation so that Members would better understand why some applications were required to come to a Sub-Committee. Having had the overview, Members could then decide whether or not they still wanted a report to be brought to the Committee in relation to the subject of delegated decisions.

Mrs Bailey gave the presentation, which covered a wide range of issues from the present situation of a person wishing to make an application, Sub-Committee scenarios, Council Policy, through to Officer Delegation and Sub-Committee hearings. She made the following Points:

- Present situation – persons wanting to become a Licensed Hackney Carriage (HC) or Private Hire (PH) driver had to go through a number of checks and tests. Provided they submitted a valid application and there were no matters arising, a Licence was issued for a period of 1 year. This was a decision delegated to the Head of Environmental Services.
- Sub-Committee Hearing Scenarios – hearings were held when there were matters arising from a new application, such as false declarations, previous history, discrepancies and medical conditions. In the case of existing Licences, a hearing would be held where matters arose during the Licence period.
- Statutory Declaration on form – making a false declaration was a very serious matter, which could result in prosecution. If the file was passed to the Policy, action could be taken under the Perjury Act 1911, S5 or the Licensing Authority could prosecute under the terms of the Local Government (Miscellaneous Provisions) Act 1976, S57(3).
- Examples of Hearings during the Licence period - breach of Licence Conditions/Byelaws, minor/major traffic offences, alcohol/drug offences, indecency, violence, dishonesty, Public Order offences, and medical issues. In the case of the latter, officers might have to liaise with the Head of Service regarding immediate suspension of the Licence.

- Council Policy – this had been drafted in line with Department of Transport Circulars, and was set out in the “Blue Book”.
- Rehabilitation of Offenders Act 1974 – This was a mechanism whereby a person’s criminal record could be “spent” in certain circumstances. However, it did not apply to drivers because it was recognised that there could be danger to the public where a person with undesirable convictions could seek a licence. Previous history was relevant and to be taken into account.
- Fit and Proper – There was no judicially approved test of fitness and propriety, but Members were asked to consider the following statement

“Would you as a member of the Licensing Committee or other person charged with the ability to grant a drivers licence, allow your son, daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

If the answer to this question (or similar) is yes, then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is fit and proper.”

- Delegation – Different authorities worked in different ways regarding hearings. Whether a case was decided in a Sub-Committee or by delegated authority, the preparation was the same.
- Sub-Committee hearings – there were many positive points about holding Sub-Committee hearings, including transparency, retaining order in the Trade, rehabilitation and reflection on the seriousness of the proceedings. They also kept Members up to date with relevant issues and the decision making process.

Mrs Bailey concluded the presentation by advising Members that most other nearby local authorities still operated a Sub-Committee structure, although at South Cambridgeshire District Council it was discretionary, and Peterborough had delegated all decisions to the Licensing Manager. She then responded to comments and questions from the Committee.

Councillor Ambrose Smith asked whether ECDC policy was in line with other local authorities, regarding annual licences, and he wondered if there was the potential to save money by issuing on a 3 yearly basis instead. Mrs Bailey replied that the subject could be broached with the Trade, but there were many things to be taken into consideration.

Councillor Ambrose Smith proposed, and Members agreed that officers should look at this issue and bring a paper back to Committee.

Councillor Allan congratulated Mrs Bailey on her presentation and asked that, should Sub-Committees continue, it be discussed whether to hold them in open or closed session.

Mrs Knox responded, agreeing that this could be given consideration. She continued, saying that there is sometimes a perception that some Committee meetings are unnecessary. However, in the case of false declarations, these, for example, are sufficiently serious enough to potentially be a Police matter. She thought that asking someone to attend a hearing showed that the matter was being taken seriously. However, whether a case was considered at a Sub-Committee hearing or by Officers under delegated authority, it still involved the same amount of work.

Councillor Wright agreed that the system needed streamlining, but if applications were to be considered under delegation, he would want the Chairman of the Licensing Committee to be involved. He could think of a good half dozen cases where the process had been followed when the outcome was inevitable. If there was a "midway house", the case could be discussed with the Chairman, thereby obviating the need to take it to a Sub-Committee.

Lin Bagwell, Licensing Officer, reminded Members that when someone applied for a Licence, they met with a Licensing Officer to go through the application. If it was a new application they would have half an hour going through the form, which was read out to them before they signed the declaration. This was to ensure that applicants understood what they were signing.

Mrs Knox asked Members to consider the following points: if there were delegated decisions, and it was decided to take a particular case before a Sub-Committee, was the Authority pre-determining the decision? Would this send out a particular message? Councillor Wright replied that some Sub-Committees were a waste of time; prior to this regime, the Legal Officer would consult the Chairman of the Committee and between them they would then decide whether a hearing was warranted, but this was only for low level cases. With regard to 3 year Licences, he agreed that Officers should look at ways to implement a scheme.

The Chairman drew the discussion to a conclusion by stating that Officers would bring a report back to the Committee. As there was much work involved and due to current workloads, it was agreed that the Committee meetings scheduled for January and February 2013 would be cancelled and all reports would be re-scheduled for the meeting on 13th March 2013.

It was resolved:

That the content of the presentation and the comments made thereon, be noted.

39. **FORWARD AGENDA PLAN**

The Committee received and considered the Licensing Committee forward agenda plan.

In accordance with discussion on the previous agenda item, the Committee meetings scheduled for January and February 2013 would be cancelled, and any business taken to March's meeting.

It was resolved:

That the Licensing Committee forward agenda plan be noted and that the meetings scheduled for January and February 2013 be cancelled.

40. **TAXI LICENSING SUB-COMMITTEE MINUTES**

The Licensing Committee received the minutes of the Taxi Licensing Sub-Committee meeting held on 5th November 2012 in respect of Driver (x).

It was resolved:

That the minutes of the Taxi Licensing Sub-Committee meeting held on 5th November 2012 be received and noted.

41. **EXCLUSION OF THE PRESS AND PUBLIC**

It was resolved:

That the press and public be excluded during the consideration of the remaining agenda item 10 because it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item there would be disclosure to them of exempt information of Category 1, 2 and 7, Part 1 Schedule 12A to the Local Government Act 1972 (as amended).

42. **TAXI LICENSING SUB-COMMITTEE - EXEMPT MINUTES**

The Licensing Committee received the exempt minutes of the Taxi Licensing Sub-Committee meeting held on 5th November 2012 in respect of Driver (x).

It was resolved:

That the Exempt Minutes of the Taxi Licensing Sub-Committee meeting held on 5th November 2012 be received and noted.

The meeting concluded at 10.35am