

**LICENSING REGULATORY
COMMITTEE**

1.00 P.M.

7TH JUNE 2012

PRESENT:- Councillors Tony Johnson (Chairman), Shirley Burns, Mike Greenall, Billy Hill, Tracey Kennedy and Robert Redfern
Terrie Metcalfe (Substitute) and Margaret Pattison (Substitute)

Apologies for Absence

Councillor Sheila Denwood and Jonathan Dixon

Officers in attendance:-

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| Luke Gorst | Assistant Solicitor |
| David Eglin | Licensing Officer |
| Rod Prentice | Licensing Enforcement Officer |
| Tom Silvani | Democratic Support Officer |

1 MINUTES

The minutes of the meeting held on 29 March 2012 were signed by the chairman as a correct record.

2 APPOINTMENT OF VICE-CHAIRMAN

The chairman requested nominations for the position of vice-chairman.

It was proposed by Councillor Shirley Burns and seconded by Councillor Billy Hill:

“That Councillor Mike Greenall be appointed vice-chairman of the Licensing Regulatory Committee for the municipal year.”

There being no further nominations the chairman advised that the proposition had been carried.

Resolved:

That Councillor Mike Greenall be appointed vice-chairman of the Licensing Regulatory Committee for the municipal year.

3 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

4 DECLARATIONS OF INTEREST

There were no declarations of interest.

5 CONFIDENTIAL ITEMS:-

In accordance with Section 100A(2) of the Local Government Act 1972, the press and public were excluded for the following items of business on the grounds that they could include the possible disclosure of confidential information.

6 APPLICATION FOR A DUAL HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - STEVEN ROBERTSON BOYD (PAGES 1 - 2)

The licensing enforcement officer presented a report to enable members to enable members to consider Mr Boyd's application for a hackney carriage and private hire dual driver's licence.

Details of the individual case and the chairman's summary of the decision are set out in confidential minute no. 6, in accordance with Section 100A(2) of the Local Government Act 1972.

It was proposed by Councillor Burns and seconded by Councillor Hill:-

"That Mr Boyd's application for a hackney carriage and private hire dual driver's licence be approved."

Upon being put to the vote members voted unanimously in favour of the proposition, whereupon the chairman declared the proposition to be carried.

Resolved:

That Mr Boyd's application for a hackney carriage and private hire dual driver's licence be approved.

7 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - ANTONIO DE MATOS RODRIGUES

It was reported that Mr Rodrigues had informed licensing that he would be unable to attend the meeting at the agreed time, and was still not in attendance.

Members unanimously agreed to defer consideration of the application.

Resolved:

That consideration of Mr Rodrigues' application for a private hire driver's licence be deferred to the next meeting of the Licensing Regulatory Committee.

8 EXEMPT ITEM:-

In accordance with Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following item of business on the grounds that it could involve the possible disclosure of exempt information as defined in paragraph 1 of Schedule 12 of the Act.

9 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - NEIL CHARLES REID

It was reported that Mr Reid was not in attendance at the meeting.

Members unanimously agreed to defer consideration of the application to the next meeting of the Licensing Regulatory Committee.

Resolved:

That consideration of Mr Reid's application for a private hire driver's licence be deferred to the next meeting of the Licensing Regulatory Committee.

10 PUBLIC ITEMS:-

The press and public were readmitted to the meeting at this point.

11 AMENDMENT TO THE SITE MANAGEMENT AGREEMENT TO CONTROL DIRECT DEBIT FACE TO FACE FUNDRAISERS

The licensing enforcement officer introduced a report to seek members' approval of the amendment to include Morecambe in the Site Management Agreement between the Public Fundraising Regulatory Association (PFRA) and Lancaster City Council.

The committee was advised that face-to-face fundraising was the personal solicitation (almost always by a professional fundraiser) of a regular charity donation via a direct debit. Unlike cash street collections which were regulated by the committee under the powers contained in the Police .Factories, etc (Miscellaneous Provisions) Act 1916, there were no provisions currently to regulate face to face (direct debit) fundraisers.

Members were reminded that following complaints from members' of the public about face to face collectors, at the LRC meeting held on 9 June 2011 a site management agreement between the PFRA and Lancaster City Council had been approved in relation to face to face collectors in Lancaster.

It was advised that the PFRA was the charity-led self-regulatory membership body for all types of face-to-face fundraising. The PFRA had a dual role as a regulator in being the bridge between councils and charities practicing face to face fundraising: maintaining professional standards and ensuring fair allocation of fundraising on the ground.

The PFRA maintained and improved professional standards in the face to face fundraising sector by enforcing the Institute of Fundraising's *Face-to-Face Activity Code of Fundraising Practice*, running a mystery shopping programme, and ensuring that their members completed an accreditation process. They also had a complaints process that could be initiated by anyone who felt a fundraiser had transgressed the code of practice. A major part of the PFRA's role was to ensure the sustainability of face to face fundraising and ensure that it was practiced in a controlled way. They ran a fair and equitable site allocation programme and worked with local councils to negotiate 'site management agreements' (SMAs) that contained guarantees about the locations and times that fundraising could take place.

The aim of a Site Management Agreement (SMA) was to facilitate face-to-face fundraising in a given location with the full agreement of the council.

It was advised that the Site Management Agreement would:

- delineate the location in which fundraisers may work. This was very specific.
- Specify which days of the week fundraisers may attend. The SMA, for instance would preclude fundraisers from working on market days. The SMA allowed fundraisers to attend four times a week in 2 locations.
- Specify how many fundraisers may attend.
- Include various other criteria and stipulations, such as distances that must be maintained from shop doorways and frontages

The PFRA would then run a diary that ensured only one charity turned up at any one time, operated according to the terms of the SMA and complied with the Institute of Fundraising Face-to-Face Activity Code of Fundraising Practice.

Since the SMA had been in place it had minimised the administration for all concerned, having provided just one channel for information, as licensing officers or town centre managers only had to deal with one organisation, the PFRA, instead of dealing with each individual charity and fundraising organisation separately.

It was advised that should PFRA members breach the terms of the SMA – for instance by straying outside the delineated areas or sending too many fundraisers – PFRA offered a single point of contact for the local authority to rectify this, and they had stated that they could usually ensure SMA breaches were put right within the hour.

The PFRA had agreed, along with licensing officers, to regularly review the agreement to ensure that it remained relevant. It had been proposed that Morecambe should be included in the agreement to ensure that the same procedures applied to those carrying out face to face collections there as to those in Lancaster. Members were recommended to approve the proposed amendment to the Site Management Agreement to include Morecambe.

Members discussed the proposal and asked appropriate questions of the licensing enforcement officer.

It was proposed by Councillor Greenall and seconded by Councillor Burns:-

“That the proposed amendment to the Site Management Agreement to include Morecambe be approved.”

Upon being put to the vote members voted unanimously in favour of the proposition, whereupon the chairman declared the proposition to be carried.

Resolved:

That the proposed amendment to the Site Management Agreement to include Morecambe be approved.

12 CHANGES TO THE LEVEL OF CRB CHECKS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The licensing enforcement officer introduced a report to inform members of the change in the level of CRB checks for hackney carriage and private hire drivers from a standard check to an enhanced check following new government guidelines.

Members were reminded that prior to March 2011, it had been the practice for many years to require all new applicants for a private hire or hackney carriage licence to have an enhanced CRB check on application, and a further one a year after the licence had been issued, followed by further checks every 3 years. It was reported that this had always been done in accordance with the Department for Transport guidelines, and had been a practice followed by most local authority licensing departments.

In March 2011 the CRB had published a newsletter stating that it would be “illegal” to request an enhanced check for the sole purpose of issuing a licence to a taxi or private hire vehicle driver.

They had backed up this statement by outlining the legislative framework as detailed below:-

“The Rehabilitation of Offenders Act 1974(ROA)(Exceptions)Order 1975 lists the types of occupations, professions and positions for which you are legally entitled to request a Standard CRB check. Taxi Drivers’ Licences are included in this list and therefore clearly entitled to a Standard level of check.

The Police Act 1997 sets out a list of employments which are entitled to an Enhanced CRB check. As it currently stands, the issuing of a licence in respect of either a Taxi or Private Hire Vehicle driver is not listed. This means that it would be illegal to request an Enhanced CRB check for the sole purpose of issuing a licence to a Taxi or Private Hire Vehicle driver.

Taxi and Private Hire drivers are not a specified position in the Safeguarding Vulnerable Groups Act 2006, however in certain circumstances some drivers will be carrying out regulated activity but only when they transport children or vulnerable adults to and from a regulated activity AND it is organised by the providers of the regulated activity or an organisation working on their behalf, e.g. Local Authority school contract or NHS contract.

It is not regulated activity if a child/vulnerable adult hires a taxi in the street or by telephone privately.”

It was advised that this had effectively meant that taxi drivers were not caught by the need for an enhanced check for children or vulnerable adults who they transport via an ordinary booking. An enhanced check would only be required if the driver was going to have regular contact through a school contract etc.

It was reported that following pressure from Licensing Officer Groups the Government had issued new guidelines which stated that hackney carriage and private hire drivers should be subject to an enhanced level CRB check. Following the latest advice from the CRB,

licensing officers had been requesting an enhanced CRB check for hackney carriage and private hire drivers.

Following latest Government guidelines which had stated that enhanced level CRB checks may be carried out for the purpose of issuing a licence to a taxi or private hire vehicle driver, the licensing officers had been requesting an enhanced check for this purpose. The Committee was asked to endorse this approach.

It was proposed by Councillor Kennedy and seconded by Councillor Greenall:-

“That the committee endorses the change back to enhanced CRB checks, and that the licensing requirements for applicants be amended accordingly.”

Upon being put to the vote members voted unanimously in favour of the proposition, whereupon the chairman declared the proposition to be carried.

Resolved:

That the committee endorses the change back to enhanced CRB checks, and that the licensing requirements for applicants be amended accordingly.

13 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – PROPOSED VARIATION OF HACKNEY CARRIAGE FARES

The licensing enforcement officer presented a report to enable members to consider a proposed variation of the current level of hackney carriage fares.

It was reported that in February 2012 two requests had been received from hackney carriage proprietors for a variation of the current level of hackney carriage fares. The variation requests differed, and the committee were advised that they were open to approve any or none of the requests.

Members were reminded that the current hackney carriage fares had come into effect on 27 June 2011. In February 2012 two requests had been received from hackney carriage proprietors for a variation of the current fares. The committee were advised that these two proposals differed, and were reminded that they had the option to approve any, or none, of these requests.

Members were advised of the details regarding both of these requests, and asked questions appropriately.

The committee was advised that the variation of fares had been discussed at the Hackney Carriage and Private Hire Proprietors Forum in April 2012, where it had been suggested by some proprietors that an increase in fares during the current economic climate would not be in the best interests of the trade. It was advised that the licensing manager had also written to all hackney carriage proprietors asking whether they agreed with these comments. Members were advised of the responses to this question.

It was advised that Financial Services had advised that the latest available Retail Price Index (RPI) was 3.5%.

Members discussed both requests for variation of the fares in detail, and asked appropriate questions of the licensing enforcement officer.

It was proposed by Councillor Burns and Seconded by Councillor Metcalfe:-

“That the hackney carriage fares remain at their current levels.’

Upon being put to the vote, 5 members voted in favour of the proposition, and 3 against, whereupon the chairman declared the proposition to be carried.

Resolved:

That the hackney carriage fares remain at their current levels

Chairman

(The meeting ended at 13.20)

**Any queries regarding these Minutes, please contact
Tom Silvani, Democratic Services - telephone (01524) 582132 or email
tsilvani@lancaster.gov.uk**

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