

**LICENSING REGULATORY
COMMITTEE**

1.00 P.M.

16TH OCTOBER 2014

PRESENT: Councillors Margaret Pattison (Chairman), Mike Greenall (Vice-Chairman) (for Minute Nos. 30 to 35 only), Roger Dennison, Jonathan Dixon, Tim Hamilton-Cox, John Harrison, Tony Johnson and Roger Mace

Apologies for Absence:

Councillor Robert Redfern

Officers in Attendance:

Mark Cullinan	Chief Executive
Sarah Taylor	Chief Officer (Governance) and Monitoring Officer (for Minute Nos. 42 (part) and 43 only)
Luke Gorst	Assistant Solicitor
Wendy Peck	Licensing Manager
Debbie Rose	Licensing Enforcement Officer (for Minute Nos. 30 to 42 only)
Marie Sharkey	Licensing Enforcement Officer (for Minute Nos. 30 to 42 only)
Susan Clowes	Public Health Team Leader (for Minute Nos. 30 to 33 only)
Joanne Alexander	Technical Officer (for Minute Nos. 30 to 33 only)
Annabelle Holloway	Legal Apprentice
Jane Glenton	Democratic Support Officer

30 MINUTES

The Minutes of the meeting held on 4th September 2014 were signed by the Chairman as a correct record.

A Member queried why the Minutes of the meeting of 4th September 2014 did not record that he had wished to raise an item of other business at that meeting, and was advised that items of other business were not permitted and that the matter had not therefore been recorded.

31 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

32 DECLARATIONS OF INTEREST

Members advised of the following declarations of interest:

Councillors Margaret Pattison, Greenall, Dennison, Dixon, Hamilton-Cox, Harrison, Johnson and Mace declared that they had received a DVD from Mr. Raby regarding Agenda Item 8 – *Existing Hackney Carriage Driver's Licence – Keith Raby* (Minute No. 40

refers), and advised that they had not been in communication with Mr. Raby regarding the matter.

Councillor Johnson declared an interest in Agenda Item 8 – *Existing Hackney Carriage Driver's Licence – Keith Raby* (Minute No. 40 refers), in that Mr. Raby was his neighbour, and advised that he had not been in communication with Mr. Raby regarding the matter.

Councillor Mace declared an interest in Agenda Item 8 – *Existing Hackney Carriage Driver's Licence – Keith Raby* (Minute No. 40 refers), in that Mr. Raby was a constituent, and advised that he had communicated with Mr. Raby regarding other issues, but not this matter.

Councillor Greenall declared interests in Agenda Items 7 and 8 – *Existing Hackney Carriage Driver's Licence – Alan Brodie/Keith Raby* (Minute Nos. 36 and 40 refer), in that his son was employed by Stagecoach as a driver, and advised that this would not influence his decision in the matter.

The Chairman advised that, with the agreement of Members, the following item of business would be brought to the beginning of the meeting to allow the Public Health Team Leader and Technical Officer to leave the meeting.

33 IMPLEMENTATION OF NEW LICENSING CONTROLS BEING BROUGHT IN UNDER THE MOBILE HOMES ACT 2013

The Committee received the report of the Chief Officer (Health and Housing) to seek decisions about the implementation of new licensing powers under the Mobile Homes Act 2013 and in principle about whether to impose related licensing charges.

The Public Health Team Leader reported that the licensing provisions of the Mobile Homes Act 2013 had come into force on 1st April 2014 and amended previous legislation covering residential caravan sites.

Members were advised that the Act provided local authorities with new licensing powers in relation to 'Relevant Protected Sites', namely residential caravan sites, commonly known as *park home sites* or *residential caravan sites*, including *traveller sites*.

The new licensing powers introduced by the Act, as set out in Sections 1-7, were outlined in detail to Members, and it was noted that Local authorities were free to choose whether to implement the Relevant Protected Site application scheme introduced by the Act.

It was reported that there were currently 39 Relevant Protected Sites in Lancaster district (details of which were set out at Appendix 1 to the report), ranging in number from a single one to 174 mobile homes. Sites were inspected on a two or three year cycle, although the six sites with a single mobile home were assessed by questionnaire.

In June 2014, approximately 550 questionnaires had been delivered to residents on the 24 sites having five or more residential caravans on the site licence, seeking their views. A total of 275 completed questionnaires had been returned and the results were summarised in Appendix 2 to the report.

Officers anticipated that there would be individual cases where implementing the new licensing powers would protect site residents from poor standards. The adoption of recommendations (1) and (2), as set out in the report, would provide for this.

It was reported that the additional workload implications would need to be absorbed within existing resources. It would be consistent with the existing charging policy for some or all of the costs to be recovered through the setting of charges at appropriate levels. It was likely that costs would be passed on by site owners to residents, but this was only allowed in the first year.

Subject to the recommendations in the report being approved, a further report would be submitted for consideration containing detailed proposals.

It was proposed by Councillor Dennison and seconded by Councillor Hamilton-Cox:

“That the recommendations set out in the report be approved.”

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

Resolved:

- (1) That the new powers conferred by the Mobile Homes Act 2013 be noted.
- (2) That the Chief Officer (Health and Housing) and any officers authorised by her in writing be given authority to exercise the licensing, inspection and enforcement powers provided in the Act, including authority to determine whether to grant or vary a licence and whether to serve a Compliance Notice, and that the Committee's scheme of delegation to officers be amended accordingly.
- (3) That a decision in principle be taken to introduce charging of fees for licensing under the Mobile Homes Act 2013.

The Public Health Team Leader and Technical Officer left the meeting at this point.

34 EXEMPT ITEMS

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

35 EXISTING HACKNEY CARRIAGE DRIVER'S LICENCE - SYED MUHAMMAD MAHMOOD (PAGES 11 - 14)

The Committee received the report of the Licensing Manager to enable Members to consider whether there was reasonable cause to suspend or revoke Mr. Mahmood's hackney carriage driver's licence.

Details of the individual case and the Chairman's summary of the decision are set out in Exempt Minute no. 35, in accordance with Section 100A of the Local Government Act 1972.

Decision of the Committee:

That Mr. Mahmood's hackney carriage driver's licence be suspended for 8 weeks with immediate effect.

Councillor Greenall left the meeting at this point.

The meeting adjourned for 10 minutes.

Councillor Greenall had previously declared an interest in the following item, in that his son was employed by Stagecoach as a driver, and advised that this would not influence his decision in the matter. Councillor Greenall had left the meeting prior to the item being considered.

36 EXISTING HACKNEY CARRIAGE DRIVER'S LICENCE - ALAN BRODIE (PAGES 15 - 17)

The Committee received the report of the Licensing Manager to enable Members to consider whether there was reasonable cause to suspend or revoke Mr. Brodie's hackney carriage driver's licence.

Details of the individual case and the Chairman's summary of the decision are set out in Exempt Minute no. 36, in accordance with Section 100A of the Local Government Act 1972.

Decision of the Committee:

That Mr. Brodie's hackney carriage driver's licence be suspended for a period of seven days.

The meeting adjourned for 5 minutes.

The Chairman advised that, with the agreement of Members, the following item of business would be brought forward to allow Mr. Raby and his representative, Mr. Kay, to attend the meeting.

37 PUBLIC ITEM

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

38 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PROPOSED REVIEW OF THE HACKNEY CARRIAGE STAND AT THE ARNDALE CENTRE, MARKET STREET, MORECAMBE

The Committee received the report of the Licensing Manager to seek Members' approval of the commencement of a consultation on the review of the hackney carriage stand at the Arndale Centre in Morecambe, which had been proposed as part of the Morecambe Area Action Plan (MAAP).

Members were advised that it was proposed that a taxi rank be put alongside Morecambe Post Office and that the disabled parking spaces be switched to the side by the Arndale

Centre where the existing rank was. This would enable taxi passengers to alight directly onto the pavement, and drivers to readily turn round a new turning facility on Market Street and pick up close by the Arndale Centre entrance. The proposal would benefit disabled drivers, who would be able to alight straight onto the pavement. The measures would help make it possible to free up traffic space to the north, narrow the carriageway and make a much better and safer pedestrian environment.

The proposed changes at the specified sites would affect existing parking restrictions and the County Highways Authority would therefore be requested to implement procedures to create appropriate Traffic Regulation Orders following the outcome of the required consultation process.

It was proposed by Councillor Dennison and seconded by Councillor Harrison:

“That the recommendations set out in the report be approved.”

Upon being put to the vote, Members voted unanimously in favour of the proposition, whereupon the Chairman declared the proposal to be clearly carried.

Resolved:

- (1) To indicate that, subject to consultation, the Committee would be minded to approve the proposed changes to the hackney carriage stand at the Arndale Centre, Market Street, Morecambe.
 - Remove the 8 taxi bays and 4 feeder bays from the east side of Market Street (as existing) and instead provide a 35 metre bay for 6 taxis along the west side of Market Street.
- (2) To authorise the Chief Officer (Governance), in accordance with Section 63 (2) the Local Government (Miscellaneous Provisions) Act 1976, to advertise the proposed new hackney carriage stand.

39 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 ground that it could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act.

It was noted that Councillors Margaret Pattison, Greenall, Dennison, Dixon, Hamilton-Cox, Harrison, Johnson and Mace had previously declared that they had received a DVD from Mr. Raby regarding the following item and had advised that they had not been in communication with Mr. Raby regarding the matter.

Councillor Johnson had previously declared an interest in the following item, in that Mr. Raby was his neighbour, and advised that he had not been in communication with Mr. Raby regarding the matter.

Councillor Mace had previously declared an interest in the following item, in that Mr. Raby was a constituent, and advised that he had communicated with Mr. Raby regarding other issues, but not this matter.

Councillor Greenall had previously declared an interest in the following item, in that his son was employed by Stagecoach as a driver, and advised that this would not influence his decision in the matter. Councillor Greenall had left the meeting prior to the item being considered.

40 EXISTING HACKNEY CARRIAGE DRIVER'S LICENCE - KEITH RABY (PAGES 18 - 22)

The Committee received the report of the Licensing Manager to enable Members to consider whether there was reasonable cause to suspend or revoke Mr. Raby's hackney carriage driver's licence.

Details of the individual case and the Chairman's summary of the decision are set out in Exempt Minute no. 40, in accordance with Section 100A of the Local Government Act 1972.

Decision of the Committee:

That Mr. Raby's hackney carriage driver's licence be suspended for 4 weeks with immediate effect.

Councillors Dennison, Harrison and Mace requested that it be recorded that they had abstained from voting.

The meeting adjourned for 10 minutes.

41 PUBLIC ITEMS

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

The Chief Officer (Governance) joined the meeting during consideration of the following item.

42 HACKNEY CARRIAGE AND PRIVATE HIRE PLATES

The Committee received the report of the Licensing Manager to inform Members of the outcomes of the recent enquiries made in relation to putting date stickers on hackney carriage and private hire plates.

It was reported that, at the Hackney Carriage and Private Hire Proprietors Forum meeting on 28th August 2014, the trade had asked whether date stickers could be applied to hackney carriage and private hire vehicle plates upon renewal, instead of new plates having to be issued each time.

The reasons for the request were that the current plates were too expensive and were made of plastic and were not recycled. Removing the plates from the vehicles to replace them with new plates caused the existing drilled holes to get bigger.

One proprietor had referred to the sticker system used by Salford Council, which the Licensing Manager had previously looked into. The newsletter reporting her findings at that time was attached as Appendix 1 to the report.

It was reported that the Licensing Manager had contacted Salford Council following the Forum meeting and had been advised that the stickers used by them were prone to come off, particularly in car washes. The plates still had to be removed from the vehicles for the old sticker and residue to be cleaned off prior to a new sticker being applied, which meant that proprietors could spend time off the road whilst the plates were being prepared.

The Licensing Manager reported on the Council's system and advised that that when the plates were replaced with new ones, the same holes were used each time. Additionally, plastic brackets could be supplied for plates to be clipped on to. New plates were available instantly, so that vehicles did not have to spend time off the road.

It was reported that the cost of a new plate was £6.20 and most proprietors needed two plates a year at a cost of £12.40, which was less than 24 pence a week. If officers had to spend time making date stickers, cleaning old stickers off plates and adding new stickers, it would be necessary to purchase new printing equipment and stickers, and the cost of these would need to be passed on to the trade.

Members were advised that there was no evidence to indicate that changing the system in place at the moment would be of any great benefit to anyone. All other Lancashire Licensing Authorities currently used the same, or similar, systems to the Council's.

Resolved:

That the report be noted.

The two Licensing Enforcement Officers left the meeting at this point.

43 COMMENCEMENT OF PROSECUTIONS

The Committee received the report of the Chief Officer (Governance) to enable the Committee to consider the practical, legal and financial implications of the Committee determining whether a prosecution should take place when recommended by officers.

It was reported that Councillors Mace, Hamilton-Cox and Johnson (constituting a quorum of the Committee) had requested that the decision of the Committee of 5th June 2014 (that the commencement of prosecution proceedings remain delegated to officers) be reconsidered. (A copy of the report considered by the June Committee was attached as Appendix 1 to the report.)

Members had requested that consideration be given, in particular, to:

- (a) The Committee monitoring in some way the opportunity given to a suspect to admit to guilt and accept a formal caution.
- (b) Amending paragraph 9.3 of the Licensing Enforcement Policy so as to better reflect the wording of the 2013 Code for Crown Prosecutors (Appendix 2 to the report).
- (c) In circumstances where officers recommend prosecution, having Member input in respect of the matters of the "public interest stage" set out in paragraphs 4.7 to 4.12 of the 2013 Code for Crown Prosecutors (Appendix 2 to the report) before prosecution proceeds.

Cautions

It was reported that officers considered whether a formal caution should be issued as an alternative to prosecution, in accordance with the Enforcement Policy. A caution would only be appropriate where the evidence was such that there would be a realistic prospect of conviction and where the offender admitted the offence, understood the significance of a formal caution and gave informed consent to being cautioned.

The Committee currently received quarterly reports on court proceedings and these could, in cases of prosecution, set out why prosecution, rather than formal caution, had been appropriate. The Committee could be advised of any formal cautions that had been issued. Cautions were not a public record and any details to the Committee would be provided in an exempt appendix.

Amendment of the Licensing Enforcement Policy

It was reported that there was no reason why the Enforcement Policy should not be amended to reflect the Code for Crown Prosecutors. An amended version of the Enforcement Policy was appended to the report at Appendix 3 for the Committee's approval. Further minor amendments had been made to take account of changes in legislation, organisational structures and guidance documents since the policy had been drafted.

Member input in the decision to prosecute

A request had been made that the report of 5th June 2014 be reconsidered and that, where officers recommended prosecution, to consider whether there could be Member input at the "public interest" stage, as set out in paragraphs 4.7 to 4.12 of the 2013 Code for Crown Prosecutors.

It was reported that if Members were to consider only the "public interest stage" and not the "evidential stage" of the decision to prosecute, the implications set out in paragraph 2.3 of the June report would not apply. However, the issues referred to in paragraphs 2.1, 2.2 and 2.4 to 2.6 of that report would still be relevant. Officers had concerns about the potential for lobbying members and the confidentiality issues, as set out in paragraphs 2.5 of the June report.

It was also of particular concern to officers that a decision for members to be involved in the decision to prosecute, even at the public interest stage only, would make the decision making process for prosecutions within the remit of the Committee different from the decision making process for all other prosecutions across the Council's enforcement functions. For this reason, should the Committee be minded to amend its scheme of delegation, the Chief Executive had indicated that he would refer the matter to full Council.

The Options and Options Analysis (including risk assessment) were set out in the report and outlined to Members.

Members requested that the recommendations in the report be dealt with in two blocks, namely recommendation (2) followed by recommendations (1) and (3).

Members asked questions regarding recommendation (2).

It was proposed by Councillor Mace and seconded by Councillor Johnson:

- “(2) That the Licensing Enforcement Policy be amended in accordance with the draft appended to the report (Appendix 2).”

Upon being put to the vote, Members voted unanimously in favour of the proposition, whereupon the Chairman declared the proposal to be clearly carried.

Members asked questions regarding recommendations (1) and (3).

It was proposed by Councillor Dennison and seconded by Councillor Dixon:

- “(1) That the format of the quarterly reports on court proceedings be amended to include information about formal cautions, and where a prosecution has been taken, information about why a formal caution was not considered appropriate.”

Upon being put to the vote, Members voted unanimously in favour of the proposition, whereupon the Chairman declared the proposal to be clearly carried.

It was proposed by Councillor Dennison and seconded by Councillor Margaret Pattison:

- “(3) That in view of the legal and practical risks set out in the report of the 5th June 2014 and reiterated in this report, the commencement of prosecution proceedings (including consideration of the public interest) remain delegated to officers.”

During the debate, it was moved by Councillor Johnson, by way of friendly amendment, that the words in brackets (including consideration of the public interest) be excluded from the recommendation.

The proposer and seconder accepted this as a friendly amendment.

Upon being put to the vote, 3 Members voted in favour of the proposition and 2 against, with 1 abstention, whereupon the Chairman declared the proposal to be carried.

Resolved:

- (1) That the format of the quarterly reports on court proceedings should be amended to include information about formal cautions, and where a prosecution has been taken, information about why a formal caution was not considered appropriate.
- (2) That the Licensing Enforcement Policy be amended in accordance with the draft appended to the report.
- (3) That in view of the legal and practical risks set out in the report of the 5th June 2014 and reiterated in the report, the commencement of prosecution proceedings remain delegated to officers.

Chairman

(The meeting ended at 7.40 p.m.)

**Any queries regarding these Minutes, please contact
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