

**LICENSING REGULATORY
COMMITTEE**

1.00 P.M.

15TH OCTOBER 2015

PRESENT: Councillors Margaret Pattison (Chairman), Terrie Metcalfe (Vice-Chairman), Charlie Edwards, Andrew Gardiner, Tim Hamilton-Cox, Colin Hartley, Roger Mace (substitute for Nigel Goodrich) Rebecca Novell and Robert Redfern (for Minute Nos. 37 to 42 only)

Apologies for Absence:

Councillor Nigel Goodrich

Officers in Attendance:

Mark Cullinan	Chief Executive
Wendy Peck	Licensing Manager
Luke Gorst	Solicitor
Marie Sharkey	Licensing Enforcement Officer
Jane Glenton	Democratic Support Officer

37 MINUTES

The Minutes of the meeting held on 3rd September 2015 were signed by the Chairman as a correct record, subject to amendment of Minute No. 34 at resolution (1) to read: "That the Licensing Manager be authorised to commence consultation with the taxi and private hire trade and stakeholders on potential solutions to the perceived problems relating to the availability of wheelchair accessible vehicles."

38 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

39 DECLARATIONS OF INTEREST

There were no declarations of interest.

MATTERS FOR DECISION

40 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE VEHICLE LICENSING - REQUEST FOR WAIVER OF LICENCE CONDITIONS REQUIRING DISPLAY OF THE COUNCIL'S UNIFORM SIGNAGE - PAUL CUMPSTY

The Committee received the report of the Licensing Manager in connection with an application for a private hire vehicle licence submitted by Mr. Paul Cumpsty, together with a request for a waiver of the standard licence condition requiring the display of the Council's uniform door signage.

It was reported that Mr. Cumpsty had applied to license a Mercedes E Class saloon and had secured contracts with local businesses and hotels, who were looking for an

executive service to transport their clients to and from the airport. The vehicle had been available for inspection prior to the meeting. Mr. Cumpsty was present at the meeting.

In considering whether to grant Mr. Cumpsty's request for a waiver of the standard licence conditions, Members heard representations from Mr. Cumpsty.

It was proposed by Councillor Hartley and seconded by Councillor Gardiner:

"That Mr. Cumpsty's application for a private hire vehicle licence and request for a waiver of the standard licence condition requiring the display of the Council's uniform signage be granted."

Upon being put to the vote, 6 Members voted in favour of the proposition and 2 against, with 1 abstention, whereupon the Chairman declared the proposal to be carried.

Resolved:

That Mr. Cumpsty's application for a private hire vehicle licence and request for a waiver of the standard licence condition requiring the display of the Council's uniform signage be granted.

41 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - APPLICATION TO RENEW A SEX SHOP LICENCE - SIN-TIL-LATE, MORECAMBE

The Committee received the report of the Licensing Manager in connection with an application to renew a sex shop licence received from Sin-Til-Late in Morecambe. An objection had been received and, in accordance with the Local Government (Miscellaneous Provisions) Act 1976, Schedule 3, the Committee was required to consider the objection to determine whether to renew the licence or not.

It was reported that, as required by the statutory provisions, the application had been advertised and an objection had been received within the 28-day period. The applicant had been informed of the content of the objection. Mr. Winstanley, one of the partners in the business, was present at the meeting.

The objectors had notified the Licensing Manager by letter that they would not be attending the meeting. A copy of the letter setting out their objections had been circulated to Members prior to the meeting.

In deciding whether to grant the sex shop licence or not, Members heard representations from Mr. Winstanley and considered the objections received.

It was proposed by Councillor Metcalfe and seconded by Councillor Edwards:

"That the application to renew a Sex Shop Licence in respect of Sin-Til-Late, Morecambe be renewed as applied for."

Upon being put to the vote, 8 Members voted in favour of the proposition, with 1 abstention, whereupon the Chairman declared the proposal to be carried.

Resolved:

That the application to renew a Sex Shop Licence in respect of Sin-Til-Late, Morecambe be renewed as applied for.

42 THE STATUS AND IMPLICATIONS OF A WRITTEN WARNING - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER AND PRIVATE HIRE OPERATOR

The Committee received the report of the Licensing Manager to inform Members of the implication and status of a written warning issued to a hackney carriage or private hire driver or private hire operator. The report had been prepared following a request from some members of the Committee as a result of complaint made by a hackney carriage driver at the recent taxi surgery.

It was reported that the Committee had adopted an enforcement policy to ensure that enforcement was carried out in a transparent and consistent manner.

Members were advised that the issuing of a warning letter was considered to be informal action and at the lower end of the options available. The use of warning letters was common across all the Council's regulatory functions. The advice given in a licensing newsletter for the trade regarding the implications of a warning letter was set out in the report.

It was reported that case law, and more recently the Rotherham report, had prescribed that all information available should be considered by Members when determining whether a driver was a fit and proper person to continue to hold a driver's licence. Any driver or operator aggrieved by a decision of the Licensing Regulatory Committee had a right of appeal to the Magistrates' Court.

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

"That the following (based on the content of paragraph 1.8 in the report) be appended to paragraph 6.1(c) of the Licensing Enforcement Policy:

~~"Under the current procedure, A warning letter will remain on file for an indefinite period; however but it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period. unless there are exceptional circumstances.~~

For example, if a warning letter was issued in June 2010 and then no further warning letters are issued until August 2013, the warning letter issued in 2010 would not be referred to.

However, if a warning letter was issued in 2010, a further warning letter in 2011 and then a warning letter in 2012, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warnings letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration."

It was then proposed by Councillor Gardiner and seconded by Councillor Metcalfe that the following words be additionally appended to paragraph 6.1(c) of the Licensing Enforcement Policy:

“A suspected offender in receipt of a warning letter shall have the right to request within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn.”

Officers advised that both proposals should be deferred and should be the subject of a report to the following meeting of the Committee to allow officers to give due consideration to them.

Councillor Mace accepted the advice of officers and withdrew his proposal.

Councillors Gardiner and Metcalfe requested that Members vote on whether to consider Councillor Gardiner's proposal at the meeting. Upon being put to the vote, 3 Members voted in favour of considering the proposal at the meeting and 5 against, with 1 abstention, whereupon the Chairman declared the proposal to be lost.

Councillor Mace then proposed that a report be presented to the next meeting of the Licensing Regulatory Committee that considered the implications of the two proposals tabled by himself and Councillor Gardiner. The proposal was seconded by Councillor Edwards.

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

Resolved:

That a report be presented to the next meeting of the Licensing Regulatory Committee that considers the implications of the two proposals tabled by Councillors Mace and Gardiner.

Councillor Redfern left the meeting at this point.

43 MULTI-AGENCY VEHICLE INSPECTION OPERATION

The Committee received the report of the Licensing Manager to inform Members of the outcomes of a recent multi-agency vehicle inspection operation.

Members were advised that licensing officers had carried out a multi-agency vehicle inspection operation with officers from the Lancashire Constabulary and the Vehicle and Operators Services Agency (VOSA) on 15th and 16th September 2015 at Salt Ayre Leisure Centre.

During the two days, 259 vehicles had been inspected. Of the 259 vehicles inspected, 32 defect notices had been issued. Seven of those had been issued in relation to hackney carriage vehicles and 25 in relation to private hire vehicles. In addition, seven vehicles had been suspended with immediate effect. Two of the vehicles had been hackney carriage vehicles and the other five were private hire vehicles.

Most of the defects had been put right during the two-day inspection period and subsequently cleared. Most of the suspensions had been resolved on the day and the vehicles had been returned to have the suspension lifted.

All proprietors who had not presented their vehicle during the two days had been contacted and alternative arrangements had been made to carry out the inspections.

Resolved:

That the report be noted.

44 CONFIDENTIAL ITEMS

In accordance with Section 100A(2) of the Local Government Act 1972, the press and public were excluded for the following item of business, because it could include the possible disclosure of confidential information.

45 APPLICATION FOR A PRIVATE HIRE AND HACKNEY CARRIAGE DUAL DRIVER'S LICENCE - MARK LEE ROWBOTHAM (PAGES 6 - 10)

The Committee received the report of the Licensing Manager to enable Members to consider Mr. Rowbotham's application for a private hire and hackney carriage dual driver's licence.

Details of the individual case and the Chairman's summary of the decision are set out in Confidential Minute No. 45, in accordance with Section 100A of the Local Government Act 1972.

Decision of the Committee:

That Mr. Rowbotham's application for a Private Hire and Hackney Carriage Dual Driver's Licence be refused.

Chairman

(The meeting ended at 2.34 p.m.)

**Any queries regarding these Minutes, please contact
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