

**LICENSING REGULATORY
COMMITTEE**

1.00 P.M.

26TH NOVEMBER 2015

PRESENT: Councillors Margaret Pattison (Chairman), Terrie Metcalfe (Vice-Chairman), Andrew Gardiner, Mel Guilding, Tim Hamilton-Cox, Colin Hartley, Roger Mace (substitute for Charlie Edwards), Rebecca Novell (for Minute Nos. 46 to 50 only) and Robert Redfern

Apologies for Absence:

Councillor Charlie Edwards

Officers in Attendance:

Mark Cullinan	Chief Executive
Sarah Taylor	Chief Officer (Governance) and Monitoring Officer
Wendy Peck	Licensing Manager
David Eglin	Licensing Officer
Luke Gorst	Solicitor
Jane Glenton	Democratic Support Officer

46 MINUTES

The Minutes of the meeting held on 15th October 2015 were signed by the Chairman as a correct record.

47 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

In accordance with Section 100B (4) of the Local Government Act 1972 (as amended), the Chairman ruled that the Committee should consider an item of urgent business relating to the *Local Government (Miscellaneous Provisions) Act 1976 – Proposed New Hackney Carriage Stand in Lancaster*. The reason for urgency was that a decision was required prior to the next scheduled meeting of the Committee on 7th January 2016.

The Chairman informed the Committee that the report would be considered following declarations of interest.

48 DECLARATIONS OF INTEREST

There were no declarations of interest.

49 ITEM OF URGENT BUSINESS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PROPOSED NEW HACKNEY CARRIAGE STAND IN LANCASTER

The Committee received the report of the Licensing Manager to request that Members approve in principle the provision of a new hackney carriage stand for 8 vehicles to be operative between the hours of 1.00 a.m. and 3.30 a.m. from September through to the end of June in Lower St. Leonardgate car park in Lancaster opposite the rear entrance of the Sugar House.

The Licensing Manager reported that numerous complaints had been received regarding hackney carriage vehicles forming a rank in the Lower St. Leonardgate car park in Lancaster from approximately 1.00 a.m. on the days that the night club was in operation. Five warning letters had been issued to hackney carriage drivers for breaching the Byelaw adopted by the Council.

Officers had liaised with the car park manager and an agreement had been reached for a rank to be established for a trial period, provided that provisions were put in place to ensure that any rank would not disrupt the workings of the car park and that it was made clear to drivers how the rank would operate.

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

“That the recommendations set out in the report be approved, and that there be a report back to Committee in April on how the rank is working.”

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) That the appointment of a new hackney carriage stand for 8 vehicles, to be operative between the hours of 1.00 a.m. and 3.30 a.m. from 1st September until 30th June every year, in the car park known as Lower St. Leonardgate, Lancaster, which is opposite the rear entrance of the Sugar House University Night Club, for 8 vehicles, be approved.
- (2) That the Chief Officer (Governance) be authorised, in accordance with Section 63 (2) of the Local Government (Miscellaneous Provisions) Act 1976, to advertise the proposed change to the hackney carriage stand provisions in Lancaster, as set out in resolution (1) above.
- (3) That there be a report back to Committee in April on how the rank is working.

50 WRITTEN WARNINGS - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND PRIVATE HIRE OPERATORS

The Committee received the report of the Chief Officer (Governance) to enable Members to consider a referral from the previous meeting.

It was reported that at its meeting on 15th October 2015, the Committee had requested that a report be presented to the next Committee meeting that considered the implications of two proposals tabled by two Members at that meeting.

The first proposal contained in the report was that the following be appended to paragraph 6.1(c) of the Licensing Enforcement Policy officers:

“A warning letter will remain on file for an indefinite period 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.”

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 warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.”

The report indicated that officers supported the proposal, subject to the addition of the words “unless there are exceptional circumstances” at the end of the first paragraph. Officers also recommended that the dates in the second paragraph be updated, and that the new words would be clearer if they were to form a new paragraph 7 in the Enforcement Policy.

The second proposal was that:

“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.”

It was reported that if Members were to consider an appeal against a warning issued by an officer, this would make the process for taxi licensing different from that which applied to warnings across the whole range of the Council’s enforcement functions.

Members were advised that Licensing Officers issued an average of three warning letters to hackney carriage and private hire drivers, and private hire operators each month. This figure could be exceeded on occasions.

To deal with an appeal would require thorough consideration of evidence, and increase the workload of the Committee significantly. It was possible that additional meetings would be required. There would be an increase in demands on staff resources in terms of preparing reports, publishing agendas, and attending meetings and preparing minutes. This would mean that there would be less time for staff to undertake other responsibilities. Further, the time spent on supervision of drivers was, by law, not recoverable through licence fees, and consequently the additional cost in staff resources could not be re-charged through the licence fees, but would have to be borne by the council taxpayers.

It was reported that many warnings were issued following complaints from members of the public, who might not be willing to attend Committee, which was why a matter was dealt with by way of warning only. Without the complainant being present to give evidence about the incident that led to the warning, it was more likely that the Committee would be minded to allow an appeal against a warning. Members of the public could therefore lose confidence in the system.

Officers were concerned that if the Committee considered an appeal against a warning, and the driver/operator subsequently appeared before the Committee for another reason, any decision on that occasion might be open to legal challenge on the grounds that Members had taken account of the earlier appeal or had not considered the second matter with an open mind.

It was therefore recommended that the second proposal should not be taken forward. Should the Committee decide otherwise, the Chief Executive would refer the matter to full

Council because any such decision would make the taxi licensing enforcement procedures different from those adopted throughout the rest of the Council.

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

“That a new paragraph 7 be included in the Licensing Enforcement Policy, as follows, with subsequent paragraphs renumbered:

7.0 *Warning Letters (Hackney Carriage and Private Hire Drivers and Private Hire Operators)*

7.1 *A warning letter will remain on file for an indefinite period, but it will not 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.*

For example, if a warning letter was issued in June 2013 and then no further warning letters are issued until August 2016, the warning letter issued in 2013 would not be referred to.

However, if a warning letter was issued in 2013, a further warning letter in 2014, and then a warning letter in 2015, 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 warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.

7.2 *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. If, in the opinion, of the Licensing Regulatory Committee, the appeal was vexatious, this shall be recorded and the warning letter, which was the subject of the appeal, shall remain available for reference in a subsequent report of the Licensing Regulatory Committee for 5 years from the date of the appeal hearing.”*

It was then proposed by Councillor Hamilton-Cox and seconded by Councillor Novell, by way of amendment, that the words ‘normally’ and ‘unless there are exceptional circumstances’ be reinstated in the first paragraph in paragraph 7.1, as set out in the officer recommendation. After a lengthy debate, the amendment was accepted by Councillors Mace and Guilding as a friendly amendment.

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

Resolved:

That a new paragraph 7 be included in the Licensing Enforcement Policy, as follows, with subsequent paragraphs renumbered:

7.0 *Warning Letters (Hackney Carriage and Private Hire Drivers and Private Hire Operators)*

7.1 *A warning letter will remain on file for an indefinite period, 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 2013 and then no further warning letters are issued until August 2016, the warning letter issued in 2013 would not be referred to.

However, if a warning letter was issued in 2013, a further warning letter in 2014, and then a warning letter in 2015, 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 warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.

- 7.2 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. If, in the opinion, of the Licensing Regulatory Committee, the appeal was vexatious, this shall be recorded and the warning letter, which was the subject of the appeal, shall remain available for reference in a subsequent report of the Licensing Regulatory Committee for 5 years from the date of the appeal hearing.

Councillor Novell left the meeting at this point.

51 REVIEW OF ARRANGEMENTS FOR LICENSING SURGERIES

The Committee received the report of the Chief Executive to enable Members to review the arrangements for Licensing Surgeries.

It was recommended that, in reviewing any future arrangements, consideration should be given to the terms of reference of the Surgery and which Members should attend. It was proposed that the remit of the Surgery should be to consider general policy issues relating to the licensing of hackney carriage and private hire vehicles, and that it be made clear that it was not within the remit of the Surgery to consider individual cases or operational matters. Any issues raised should be referred to officers, the Committee or Cabinet, as appropriate.

It was suggested that the Surgery would be more focused and effective if it were to be held by the Chairman alone, or by the Chairman and the Vice-Chairman, with officer support, which would make a clear distinction between the Surgery and the formal Committee. Once an issue was raised at the Surgery, the Chairman could then, if appropriate, request officers to prepare a report for the Committee, provided that the issue was properly a matter for consideration by the Committee. This would ensure that all the relevant information could be provided to enable the Committee to consider the matter and make any necessary decision.

Each Surgery would be supported by one or two chief officers of the Council. Licensing officers would not be in attendance. This would emphasise that it was not the role of the Surgery to consider operational matters, or to provide immediate explanations or responses, but rather to ensure that issues raised were followed up and referred to the appropriate decision-maker.

The above changes would make the role of the Surgeries clearer and their operation more effective. It was reported that Members might also wish to consider whether an appointment system should be introduced for each Surgery, with a maximum of two individuals attending each appointment.

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

“That the recommendation set out in the report be approved, namely:

- (1) That the terms of reference of the Surgery be clarified so that they provide an efficient and effective mechanism for individual hackney carriage and private hire licence holders to raise issues, which may then be referred for further consideration by officers, the Committee, or Cabinet, as appropriate.
- (2) That future Surgeries be attended by the Chairman and the Vice-Chairman, supported by officers.”

It was then proposed by Councillor Mace, by way of amendment, and seconded by Councillor Guilding:

- “(1) That the terms of reference of the Surgery be clarified so that they provide an efficient and effective mechanism for individual hackney carriage and private hire licence holders to raise issues, which may then be referred for further consideration by officers, the Committee, or Cabinet, as appropriate.
- (2) That:
 - (a) future Surgeries be attended by the Chairman/Vice-Chairman;
 - (b) any other member or substitute member of the Licensing Regulatory Committee be entitled to attend future Surgeries;
 - (c) a Surgery be able to receive no more than two members of the trade at a time;
 - (d) the Committee requests that each Surgery be attended by a legal representative and an officer from Democratic Services
 - (e) arrangements be made for members of the trade to wait in a separate room to await being summoned into the Surgery;
 - (f) Surgeries be held at times to be arranged.”

It was then proposed by Councillor Redfern, by way of a friendly amendment:

“That meetings of the Surgery alternate between Morecambe and Lancaster.”

The friendly amendment was accepted by Councillors Mace and Guilding.

Following debate, Members voted on the amended motion. Seven Members voted in favour of the proposition and 1 against, whereupon the Chairman declared the amended motion to be carried.

Resolved:

- (1) That the terms of reference of the Surgery be clarified so that they provide an efficient and effective mechanism for individual hackney carriage and private hire

licence holders to raise issues, which may then be referred for further consideration by officers, the Committee, or Cabinet, as appropriate.

(2) That:

- (a) future Surgeries be attended by the Chairman/Vice-Chairman;
- (b) any other member or substitute member of the Licensing Regulatory Committee be entitled to attend future Surgeries;
- (c) a Surgery be able to receive no more than two members of the trade at a time;
- (d) the Committee requests that each Surgery be attended by a legal representative and an officer from Democratic Services
- (e) arrangements be made for members of the trade to wait in a separate room to await being summoned into the Surgery;
- (f) Surgeries be held at times to be arranged;
- (g) meetings of the Surgery alternate between Morecambe and Lancaster.

52 CHILD SEXUAL EXPLOITATION (CSE) TRAINING FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The Committee received the report of the Licensing Manager to seek approval from Members for the proposals set out in the report in relation to the delivery of Child Sexual Exploitation (CSE) training to all members of the hackney carriage and private hire trade; and to approve an amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing to include a condition making it a requirement for all holders of hackney carriage and private hire licences (drivers, operators and proprietors) to undergo the CSE training before a licence can be renewed.

At the meeting on 3rd September 2015, the Committee had resolved that the Licensing Manager be authorised to develop a suitable CSE training package, in conjunction with the Safeguarding Officer and the Lancashire Officers' Group, which could be delivered to hackney carriage/private hire drivers and Members, and to report back to the Committee at a later date to seek approval of implementation of the training.

As a result of this resolution, officers had developed a package in liaison with neighbouring authorities and police officers from the Lancashire Constabulary Public Protection Unit, which was in the form of a presentation, followed by questions, and aimed at encouraging discussion and thought, rather than being a pass/fail situation.

It was proposed that existing licence holders, including operators, proprietors and drivers would be invited to attend one of five free training sessions, which would be held one day in January with the support of DCI Tony Baxter of the Lancashire Constabulary Public Protection Unit. Members of the Committee would also be invited to attend.

It was further proposed that two more free training days would be offered, one in February and one in March. Both days would offer five sessions for members of the trade to book on to. In total, 15 free training sessions would be offered. The training sessions in February and March would be carried out by Licensing Officers who had been trained to deliver the sessions.

Following delivery of the free training sessions, it was proposed that a cost should be associated with further training sessions for those who had not taken advantage of the offer of free training to encourage a greater uptake of the free training. The cost would need to be calculated and would be included in the fees report due to be submitted in the New Year.

It was proposed that new drivers would be given a booklet, which was being produced by Lancashire County Council, as part of the application pack. CSE would form part of the knowledge test, which was already carried out, and would not require a change of condition.

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

“That the proposals set out in the report be approved, subject to the word ‘training’ being replaced by the word ‘presentation(s)’”

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

Resolved:

- (1) That the proposals set out in the report in relation to the delivery of CSE presentations to all hackney carriage and private hire licence holders (drivers, operators and proprietors) be approved.
- (2) That the following addition to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing be approved:

All licence holders, including drivers, proprietors and operators, must undergo a CSE presentation before the first renewal of their licence after the end of January 2016.

Chairman

(The meeting ended at 2.35 p.m.)

**Any queries regarding these Minutes, please contact
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