

# LICENSING REGULATORY COMMITTEE

## Participation in Licensing Regulatory Committee Meetings 24<sup>th</sup> March 2016

### Report of the Chief Executive

#### PURPOSE OF REPORT

To advise the Committee of an issue raised at a recent Taxi Surgery.

**This report is public**

#### RECOMMENDATIONS

**(1) That the report be noted, and no further action taken.**

##### **1.0 Report**

- 1.1 At a recent Taxi Surgery meeting, a hackney carriage proprietor expressed the view that a member of the trade should be permitted to sit with the Licensing Regulatory Committee and to join in the Committee's discussions. This report explains why, in the view of officers, that proposal would not be appropriate.
- 1.2 The purpose of this Committee is to exercise regulatory functions of the Council, with regard to the licensing of hackney carriages and private hire vehicles, their drivers and operators, and certain other miscellaneous licensing for which the Council is responsible.
- 1.3 The Committee's functions are in effect prescribed by law. Generally, all functions of the Council are, by default, executive functions to be undertaken by Cabinet. However, Regulations set out certain matters, including licensing functions, which are not to be exercised by the executive, and it is these matters which fall within the terms of reference of this Committee. In essence, the Committee's functions are to grant, refuse, suspend or revoke licences, to determine the conditions on which licences are granted, and to set the fees for licences.
- 1.4 Many of the matters considered by the Committee relate to individual applicants, where the matter is confidential to the individual applicant. Clearly, for such matters it would be inappropriate for any other member of the trade to be involved.
- 1.5 Other more general matters, such as the conditions applied to licences, the

enforcement policy and the licensing fees are considered in public. The Committee has established a procedure for public speaking, whereby any member of the public, including members of the trade, may address the Committee on an item of business that appears on the agenda. Speakers must register three working days before the meeting, and must provide a written version of their speech. The procedure allows for members of the Committee to ask questions of any public speaker. However, public speakers are not permitted to participate in the Committee's debate. That is consistent with the arrangements for public speaking at meetings of Council, Cabinet and Planning and Highways Regulatory Committee.

- 1.6 Public speaking is one mechanism whereby any member of the trade may express views on a matter that is to be discussed by the Committee. In addition, members of the trade are able to raise any issue with elected members at the Taxi Surgery meetings. Also, consultation is often undertaken before major decisions are taken by the Committee. Certain decisions, for example the variation of fees and the variation of hackney carriage fares have prescribed statutory procedures which enable representations and objections to be considered before decisions are taken. Thus, there is considerable opportunity for members of the trade to put forward their views on matters to be considered by the Committee. Indeed, this is in marked contrast to other businesses regulated by the Council, for example food businesses, where there is no mechanism for engagement between the businesses and elected members.
- 1.7 Members of this Committee, in making their decisions, receive professional advice from licensing and legal officers, who are experienced and knowledgeable in the area of taxi licensing. If members have questions about a particular report, or need further advice, then it is appropriate for them to seek the appropriate information from their officers. This ensures that the information before members is impartial and reflects best practice.
- 1.8 The decisions taken by the Committee are taken in order to regulate the trade and to protect the travelling public. Whilst the views of the trade are taken into account, as indicated above, it would be entirely inappropriate for those who are regulated to participate in the decision making process. There must be a clear distinction between the regulating authority and those whom it regulates as is the case in every other regulatory function of the council. Furthermore, in cases resulting in legal proceedings, the courts could take a view that the proceedings have been jeopardised by the blurring of lines between the regulator and those whom it regulates.

## **2.0 Conclusion**

- 2.1 For the above reasons, therefore, the Committee is recommended not to explore further the suggestion that one or more members of the trade be permitted to participate in the Committee's formal discussions.
- 2.2 Should Committee wish this matter to be considered further, a report will be referred to the Council Business Committee.

**CONCLUSION OF IMPACT ASSESSMENT**

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report.

**LEGAL IMPLICATIONS**

A regulatory Committee should be seen to be objective and unbiased in its decision making.

**FINANCIAL IMPLICATIONS**

None directly arising from this report.

**OTHER RESOURCE IMPLICATIONS****Human Resources:**

None

**Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

Consulted and no comments to add.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer wishes to emphasise that it would be entirely inappropriate for any member(s) of the trade to be permitted to sit with the Licensing Regulatory Committee and join in the Committee's discussions, for the reasons clearly set out in this report. For similar reasons it would not be desirable for a Member of the Committee with close links to the taxi trade to serve on the Committee when discussing taxi matters, as it would frequently present a conflict of interests.

**BACKGROUND PAPERS**

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