

LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 2 SEPTEMBER 2019 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Sue Evans, Cllr Jose Green (Vice-Chair), Cllr Mike Hewitt, Cllr Peter Hutton (Chairman), Cllr George Jeans, Cllr Leo Randall, Cllr Pip Ridout, Cllr Peter Evans and Cllr Atiquel Hoque (Substitute)

Also Present:

Carla Adkins (Public Protection Officer – Licensing), Danial Farr (Compliance Officer), Linda Holland (Licensing Manager), Jo Hulbert (Compliance Officer), Tom Ince (Compliance & Enforcement Team Leader), Sarah Marshall (Senior Solicitor), Lisa Pullin (Democratic Services Officer)

23 Apologies/Substitutions/Membership Changes

Apologies were received from Councillors Allison Bucknell, Jim Lynch and Ian Thorn and from Julie Anderson-Hill (Head of Culture and Operational Change). Councillor Atiquel Hoque was substitute for Councillor Bucknell.

24 Minutes

The minutes of the meeting held on 3 June 2019 were presented to the Committee.

Resolved:

That the minutes of the meeting held on 3 June 2019 be approved and signed as a correct record.

25 Chairman's Announcements

The Chairman, Councillor Peter Hutton made the following announcements:

Change to Agenda order

We will bring Agenda item 11 forward so that all items for the Licensing Team are together and the Officer is able to leave after that time.

Change of Cabinet Member

The Chair had met with Councillor Laura Mayes who is the new Cabinet Member for Adult Social Care, Public Health and Public Protection to make her aware of the remit of the Licensing Committee.

26 **Declarations of Interest**

Councillor Atiquel Hoque declared that his brother and cousin are both taxi drivers in Wiltshire.

27 **Public Participation**

No questions had been submitted to the Committee from the public prior to the meeting and no public were present at the meeting. Julia Hiystek, Local Democracy reporter for the Gazette & Herald and the Wiltshire Times was present at the meeting.

28 **Minutes of the Licensing Sub Committees**

Northern Area

20/05/19 Application for a Variation of a Premises Licence, in respect of The Old Lane, Lodge Road, Chippenham

Southern Area

31/05/19 Application by Wiltshire Police for a Review of the Premises Licence in respect of @Home, 5 Bridge Street, Salisbury

Resolved:

That the minutes of the meetings detailed above be approved and signed as correct records by the Chairman.

29 **Statement of Licensing Policy - Update**

Carla Adkins (Public Protection Officer – Licensing) referred to the report that was circulated with the Agenda which asked the Committee to note the consultation undertaken and subsequent amendments made to the Council's draft Statement of Licensing Policy. The following points below were highlighted:

- Consultation was carried out between 1 April and 7 August 2019, during which 17 responses were received from a mix of stakeholders and groups;
- The responses to the consultation were detailed in Appendix 2 to the report and there were three areas highlighted in blue which sought a Member view/recommendation on whether suggested changes should be made to the draft Statement of Licensing Policy;
- The first was in relation to Shadow Licences. As Shadow Licences are not referred to in the Section 182 guidance this had not been mentioned in the Policy although it was suggested that wording could be added with a query if a shadow licence was to be reviewed should the original licence be reviewed.

A Committee Member asked how prevalent Shadow Licences were in Wiltshire and it was reported to Committee that there were a handful in existence. It was suggested that it would perhaps be clearer if this wording was included within the Policy and agreed that legal advice should be sought following Committee. The Committee agreed that if Legal advice was to include a reference to Shadow Licences then it should be included in the Policy.

- A Town Council had requested that the timescale for the submission of an Event Management Plan for smaller scale events be reduced to 3 months (from 6 months);

A Committee Member asked for the view of the Licensing Manager. Linda Holland reported that six months allowed more time for appropriate arrangements to be made to ensure relevant infrastructure could be put in place for safe and successful events. The Committee agreed not to accept this amendment and to retain the current 6-month timescale.

- A Town Council had requested to amend the wording of the intention to use polycarbonate “glasses” rather than glass to address safety issues. It had been suggested that this be amended to “multi-use plastic”. The Committee agreed that this change should be made to the Policy;
- A few respondents to the consultation had questioned the application process but this was not able to be changes as it is set in legislation. Some felt that the Planning Department should be more involved. Officers confirmed that they are a statutory consultee, but they cannot be forced to make a response/representation when an application is received;
- A number of concerns relating to specific premises were raised and those had been dealt with outside of the consultation and they had been

reminded that this is a Wiltshire wide policy to cover all licensable venues; and

- The Policy would be now be amended and a final draft prepared to be presented to the next meeting of Council for approval.

The Chairman thanked Officers on behalf of the Committee for the work to produce the Statement of Licensing Policy.

Resolved:

- 1. That the Committee note the consultation undertaken and subsequent amendments now agreed by the Committee to be made to the Council's draft Statement of Licensing Policy.**
- 2. That the Licensing Committee commends the Statement of Licensing Policy under the Licensing Act 2003 to the Council for approval at its meeting on 26 November 2019.**

30 **Licensing Act 2003: Film Classification**

The Licensing Manager, Linda Holland referred to the report which sought the Committee's approval to agree a process and procedure to address requests for film classification in line with relevant legislation. The Licensing Manager highlighted the following:

- A request had been received by a local film society to classify a file which had not been age certified by the British Board of Classification (BBFC). The Council does not currently have a process or procedure to address such a request in line with relevant legislation and so this will need to be addressed;
- It was proposed that the procedure for the classification of films (attached as Appendix 1 to the report) be approved in order for Wiltshire as the Licensing Authority to be able to classify films that have not been classified through the BBFC system or where the Licensing Authority has been requested to classify a film that has already been classified by the BBFC under the following circumstances
 - a) Where at least three members of the Council give notice to the Head of Public Protection of their wish to call-in a film for classification by the licensing authority; or
 - b) Where a distributor of a film appeals a decision of the BBFC and requests that the licensing authority classifies the film.

Members requested that it be stipulated within the guidance that the delegation of the responsibility for film classification be to a Licensing Sub Committee of 3

members and the procedure be amended to state that all films to be classified by the Sub Committee should include English subtitles or provide an English script in order for members to determine the classification.

Resolved:

- 1. To approve the procedure as amended above by the Committee and a set out in Appendix 1 with film classification matters which are the responsibility of Wiltshire Council, as the Licensing Authority.**
- 2. To delegate the Licensing Authority's responsibility for film classification to a Licensing Sub Committee of 3 Members.**
- 3. To arrange the classification of a film following a request from Bradford-on-Avon Film Society to show a film in February 2020 that not does not have a British Board of Film Classification.**

31 **Update from the Licensing Authority Working Group**

Tom Ince (Compliance and Enforcement Team Leader) referred to the briefing note on the work of the Licensing Authority Working Group that had been circulated with the Agenda. The following points below were highlighted:

- The Working Group that was set up in May 2019 had pulled together a list of recommendations/areas to explore and these were being progressed;
- In relation to the fares/tariff structure, the Taxi Licensing Team met with trade representatives from all areas in June 2019 and advised them that the Council was committed to having one schedule of tariffs and fares across the whole County, but rather than impose this on drivers, the representatives were asked and agreed to survey all the drivers within their areas and put forward a proposal for any new tariff and fare structure for consideration. Representatives were advised that any new proposals would have to be agreed by the whole trade and which would be required to sign up to any revised proposal. A deadline of 10 December 2019 was set for this and a meeting is scheduled in September to track progress on this;
- The proposal to look at making CCTV a mandatory requirement for all taxis within Wiltshire has been explored but there are a number of legal issues regarding the ownership of the data collected. It would mean that the Council would be responsible for all the data and the management of said data, but the data would not be within its control. Officers have received legal advice that CCTV in taxis within Wiltshire would be considered to be best practice but is not mandatory;

- Uber is a big concern for Wiltshire as they are not licenced with Wiltshire and are therefore not subject to our licence requirements, although they can and do carry out journeys in Wiltshire. A briefing note for all Members on Uber to explain the situation would be circulated following the meeting;
- The National Anti-Fraud Network (NAFN) operates a National database of named taxi drivers who have had their licences refused, suspended or revoked and whilst Wiltshire Council is a member, the Taxi Licensing Team do not currently use the system, but it may be considered to be advantageous to do so. Currently driver data is not shared with any third party except for the Police in criminal cases. For the Taxi Team to be included in the NAFN approval would first need to be sought from the Licensing Committee to make changes to the council Driver and Operator Guidelines; and
- The Licensing Authority Working Group are arranging to meet again in early October 2019.

A Committee Member asked the public would be involved in the fare/tariff discussions. It was reported that at this stage it was just the trade being asked to put forward a proposal to the Taxi Licensing Team. The Committee Member felt that the public should be involved in discussions and that Salisbury in particular had a major problem with fare rates. Tom Ince reminded the Committee there is flexibility with the fares and the tariffs are the maximum rates that can be charged. Another Committee Member who had been involved with the Environment Select Late Night Taxi Fares Task Group reported that they found that it was the drivers who were causing the problems because they were not using the tariffs and patrons were using those taxis who offered to do the journey at a cheaper rate.

In relation to Uber, Tom Ince clarified that Uber had not to date applied to trade in Wiltshire and therefore any journeys carried out by Uber are not subject to the Councils checks and requirements on operators and drivers.

A Committee Member asked about the BTEC Level 2 qualification. It was reported that the current online training option is achieving 100% compliance but concerns have been raised as to whether some drivers are requesting others to complete the training on their behalf. The Council are currently looking into this with the possibility of providing an in-house training package of courses which would require drivers to personally attend the office for a half-day session as well as meeting with a representative from BTEC to assess its value. This would be reported on further at the next meeting.

The Licensing Authority Working Group is scheduled to meet on Monday 7 October and a further report of the group would be presented to the next meeting of the Licensing Committee on 2 December 2019.

Resolved:

- 1. That the update from the Licensing Authority Working Group be noted.**
- 2. That an update be provided to the Licensing Committee at their meeting on 2 December 2019.**

32 **Review of the Wiltshire Council Fit and Proper Person Policy for Hackney Carriage and Private Hire Licences**

Tom Ince (Compliance & Enforcement Team Leader) referred to the report which reviewed the Council's Fit and Proper Person Policy for Hackney Carriage and Private Hire Drivers. Tom highlighted the following:

- The current Fit and Proper Person (F&PP) Policy was last considered by the Licensing Committee in November 2010. A comprehensive review of the guidelines for determining the suitability of applications of Hackney Carriage and Private Hire Licences has been undertaken utilising current relevant guidance and it is now proposed to consolidate the two existing policies into one which is much more robust and gives more power to deal with areas of concern, alleviate any enforcement issues and drive up the required standards for Wiltshire; and
- The table on page 222 of the Agenda shows the key differences between the proposed and current F & PP policies which also show the increased times before a new licence can be reapplied, in line with DfT recommendations.

A Committee Member asked what checks we carry out for drivers. Tom Ince reported that the Taxi Licensing Team would carry out an enhanced DBS check and this would be updated every 3 years. The new Fit and Proper Person Policy would also require drivers to sign up to the DBS update service which would mean that their DBS status can be checked upon at any time.

When processing applications all the facts would be considered, and all available information would be used to inform the determination of the application.

A Committee Member questioned if the proposed policy was over zealous? It was reported that the proposed policy was in line with that of other licensing authorities and had taken into account the guidance from the Institute of Licensing. The Council is still awaiting the results of the national consultation carried out earlier this year and it was anticipated that with the adoption of the Fit and Proper Person Policy, Wiltshire would be ahead of other authorities.

Resolved:

That the Licensing Committee adopt the revised Fit and Proper Person Policy for Hackney Carriage and Private Hire Licences as set out in Appendix A. This will apply to all new applications and renewals that are received from 1 October 2019 and thereafter.

33 Update on the Licensing Service

Linda Holland (Licensing Manager) referred to the update on the Licensing Service that was circulated with the Agenda. The following was highlighted:

- Under the Animal Welfare regulations that were introduced in October 2018, all existing licences have now been inspected and the premises are given star ratings. This has been a major area of work for the team over the last year and as those who inspect need to be suitably qualified by October 2021 to carry out animal activity inspections three of the Licensing Officers attended a 5-day residential course in August and two more are due to attend in 2020;
- The Team had worked with the Immigration Service following concerns raised about employees who were working within the night time economy in situations that were not favourable to them;
- Two reviews of Premises Licences had been carried out; at hearings of the Licensing Sub Committee in 2019, both had lost their licences;
- A number of betting shops across the country were closing which was likely due to a loss of income as the maximum permitted stake for category B2 gaming machines had reduced from £100 to £2 from April 2019; and
- There were some impending changes within the Licensing Team Officers and details of the geographical areas covered by Officers would be provided to the Committee at the next meeting.

The Chairman wished for the Committee's thanks to be passed onto Officers for their work at supporting the festivals and large-scale events across the County.

A Committee Member asked about unlicensed dog breeders. The Licensing Manager confirmed that a dog can have up to three litters a year without the need for a licence. For all those that sell puppies and are licenced, they should advertise their licence numbers. There were 6 licensed dog breeders previously and this has now risen to 17. All puppies should be microchipped by the time they are 8 weeks old and should not be sold before they are 8 weeks and the mother of the puppies should be present at the time they are sold.

Lucy's Law is scheduled to come into force on 6 April 2020 which requires animals to be born and reared in a safe environment with their mother and to be sold from their place of birth. This legislation will help although there is a concern that it could drive the selling of puppies underground.

A Committee Member asked what sort of reception the implementation of the legislation had received? It was reported that on the whole it had been satisfactorily received and most premises were keen to comply in order to achieve a good star rating. Licensing Officers were currently undertaking unannounced inspection visits to all the high-risk premises that are 1 and 2 stars rated and on a few of these inspections issues and concerns are raised which in turn are leading to further enforcement such as warnings, suspensions and possible revocations.

The Licensing Manager reported that those in the trade are helpful in reporting to us concerns of possible unlicensed traders and the Press have been helpful with articles being published in relation to the this. The Committee expressed their view to be able to support the legislation and it was agreed that the Licensing Manager would produce a Briefing Note for Members towards the end of the year.

Resolved:

- 1. That the Licensing update be noted.**
- 2. That Linda Holland prepare a Briefing Note for Councillors on the Animal Welfare Regulations.**

34 **Dates of Future Committee Meetings**

Members noted the dates of future meetings of the Licensing Committee as detailed below, all to start at 10.30am

2 December 2019
2 March 2020.

35 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 11.40 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services, direct line 01225 713015, e-mail lisa.pullin@wiltshire.gov.uk

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