

LICENSING AND SAFETY COMMITTEE
11 JUNE 2015
7.30 - 8.45 PM



Present:

Councillors Allen (Chairman), Thompson (Vice-Chairman), G Birch, Finch, Ms Gaw, Mrs McCracken, Mrs McKenzie, Ms Miller, Porter and Tullett

Apologies for Absence were received from:

Councillors Dr Barnard, Brossard, Brunel-Walker, Finnie and Leake

4. Declarations of Interest

There were no declaration of interest.

5. Minutes

RESOLVED that the minutes of the meetings of the Licencing and Safety Committee held on 9 October 2014 and 27 May 2015 be approved as a correct record and signed by the Chairman.

6. Urgent Items of Business

There were no urgent items of business.

7. Notice of Public Speaking

It was noted that no members of the public had registered to speak at the meeting.

8. Health and Safety Plan

The Committee received a report setting out the Health and Safety Law Enforcement Plan 2015 – 2016. The plan set out the framework within which the Council sought to enable businesses to comply with statutory obligations and was required in order to comply with Section 18 of the Health and Safety at Work Act 1974.

It was reported that as of 1 April 2015 there were 1,522 businesses in Bracknell Forest where the Council had a duty to regulate health and safety in the interests of public safety. Over the course of 2014/15 officers had carried out 353 proactive interventions were undertaken, 109 reactive visits were carried out following the receipt of notifications, enquiries or complaints and 221 enquiries and complaints were receive about working conditions and practices. It was not thought that the publication of new construction regulations (CDM 2015) would impact on the work of the Regulatory Services Team however this would be clarified.

RESOLVED that the work undertaken in 2014/15 be noted and the proposed Health and Safety Plan 2015/16 be approved.

9. **Annual Service Plan**

The Committee considered a report detailing the activities carried out by the Licensing Section during the period 1 April 2014 to 31 March 2015 and a proposed work plan for the period 2015/16.

Using a risk based assessment programme to visit licensed premises and vehicles to check compliance and provide assistance and advice to those businesses, the Licencing Team carried out 109 programmed inspections and 20 non-programmed inspections over the time period covered by the report. These numbers were lower than those carried out in the previous year (166 and 50 respectively) due to one long term absence on the Team. 1 warning was issued in relation to licensing matters and 264 enforcement points were issued to 26 licensed drivers.

In addition to officer inspections, reports about enforcement concerns were received from a variety of sources including members of the public and the Police. Where a concern was raised these were investigated and the driver or business was given an opportunity to put their side of the story. It was acknowledged that footage from Dash-Cams was proving useful when verifying a complaint.

Joint inspections of licensed vehicles with DVSA, HMRC and the Police would continue and Committee Members would be welcome to attend these.

It was clarified that the law did make provision for the limiting of the number of licensed hackney carriages in an area however a significant volume of survey work must be carried out before hand. It was noted that in Bracknell Forest the trade had requested that a limit of 80 hackney carriage licences be imposed however the resulting survey work had not supported this level so no limit had been set. There were currently 83 operating hackney carriage licenses in the Borough and this was taken as a sign that the market was regulating itself.

Park Homes were licensed under the Caravan Sites and Control of Development Act 1960 and there were 19 licensed sites across the Borough. These were audited in accordance with risk assessments. The Licensing Team was working the Council's Planning Section to ensure that any concerns were addressed appropriately.

It was agreed that a list of all licensed street traders and the number of inspections carried out would be circulated to the Committee.

In response to an enquiry about the impact of the regenerated town centre on the Licensing Team's work load it was reported that licences had already been issued for four premises that were not yet built. Although the future impact on resources was not yet known work would take place to ensure that resources would continue to be utilised to their best possible advantage.

RESOLVED that:

- i. The work completed in 2014/15 and detailed within the report of the Chief Officer: Environment and Public Protection be noted
- ii. Subject to any comments, the work plan for 2015/16 be approved

10. **Review of Statement of Licensing Policy**

The Committee considered a report setting out the proposed timetable for a review of the Council's Statement of Licensing Policy.

Under the Licensing Act 2003, the Council is required to prepare and publish a Statement of Licensing Policy, setting out the general approach of the licensing authority when making licensing decisions, every five years and Bracknell Forest's Statement had to be reviewed and re-published by 7 January 2016.

The current Statement would be updated to reflect the contents of the latest national guidance (issued in October 2014 and March 2015) and would then be subject to a statutory twelve week consultation period. Consultation would take place with a range of groups including: the local police force, the Fire and Rescue Authority, licence holders, the business community and local residents. It was proposed that any responses to the consultation be considered by a small working group of the Committee in September 2015 before the revised Statement was brought back to the Committee for approval in October 2015. Councillors Porter, Finch and Thompson volunteered to participate in the working group; absent councillors would be canvassed for any additional members. .

It was agreed that the latest national guidance and the proposed new statement would be circulated to the Committee before it went out to consultation.

RESOLVED that:

- i. The proposed timetable, as set out in paragraph 5.3, of the report of the Chief Officer: Environment and Public Protection be approved
- ii. The proposed consultee list, as set out in Annex B of the report of the Chief Officer: Environment and Public Protection be approved
- iii. In September 2015, a small working group of the Committee would review the consultation results and the proposed changes before the Statement came back to the Licensing and Safety Committee for approval

11. **Review of Statement of Gambling Principles**

The Committee considered a report setting out a proposed timetable for a review of the Council's Statement of Gambling Principles.

The Statement of Gambling Principles sets out the principles which a licensing authority proposes to apply in exercising their functions under the Gambling Act 2005. Under the Act the Council is required to review and consult upon its Statement every three years from the date of adoption. The Council's current Statement was originally published on 31 January 2013 and in line with requirements the statement had to be reviewed and republished on or before 31 January 2016.

As part of the review consultation would take place with a range of interested parties over a twelve week period. It was proposed that any responses to the consultation be considered by a small working group of the Committee in September 2015 before the revised Statement was brought back to the Committee for approval in October 2015. Councillors Porter, Finch and Birch volunteered to participate in the working group; absent councillors would be canvassed for any additional members.

RESOLVED that:

- i. The proposed timetable for the review set out in paragraph 5.3 of the Chief Officer: Environment and Public Protection's report be approved
- ii. The proposed consultee list at Annex B of the Chief Officer: Environment and Public Protection's report be approved

- iii. In September 2015, a small working group of the Committee would review the consultation results and the proposed changes before the Statement came back to the Licensing and Safety Committee for approval

12. **Review of Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers**

The Committee considered a report providing an update on recent consultation on the proposed amendments to the Council's Guidance Notes and Conditions document for Hackney Carriage and Private Hire vehicle owners, operators and drivers.

The Guidance Notes set out the legal requirements and licence conditions and provide guidance to the trade and were updated on a regular basis to reflect changes in the law and Council policy. The Committee noted the following proposed material changes:

- A new condition requiring operators to notify the Council of any convictions, cautions or fixed penalties
- A new condition relating to the suitability of base controllers
- A new condition relating to trading names of operators
- A new condition requiring temporary replacement vehicles and those on fleet policies or temporary cover notes to carry a copy of the insurance in the vehicle
- Clarification of three existing conditions

It was questioned whether it would be an appropriate time to review the penalty point scheme for drivers. It was agreed that a working group to review the scheme would be an appropriate way forward however any revisions would have to feed into next year's review process.

RESOLVED that:

- i. The results of the consultation, as set out at Annex B of the Chief Officer: Environment and Public Protection's report be noted
- ii. The amendments and additions to the Guidance notes and Conditions documents, as set out at Annex C of the Chief Officer: Environment and Public Protection's report be approved with immediate effect

13. **Criminal Convictions Policy**

The Committee considered a report providing an overview of the criminal convictions element of the 'Fit and Proper' test as currently applied to drivers of Hackney Carriages and Private Hire vehicles and proposing the development of a stand alone policy which would be applied when making decisions as to the granting, suspension or revocation of driver licences.

The Local Government Association suggests that each licensing authority has its own Criminal Convictions Policy and had published a suggested model policy for licensing authorities to adapt. Arising from the subsequent discussion of the model policy the following points were noted:

- If adopted the policy would apply to all new applicants and a decision on whether or not the policy would apply retrospectively to current licence holders could be taken separately

- Concern was expressed over the proposed use of soft intelligence to inform a decision on whether an applicant was a 'fit and proper' person. It was stressed that discretion would be applied when considering soft intelligence. Decisions would be made on a case by case basis and would need to be legally acceptable, proportionate and reasonable
- If officers were minded to revoke or refuse a driver licence then the applicant was given the option to request that a Licensing Panel make the determination. If this was declined by the applicant then the officer has delegated authority to refuse or revoke. Where a decision has been taken by either an officer or a Licensing Panel the applicant can appeal to the Magistrates Court.
- Uber had not yet applied to operate in Bracknell Forest however feedback from neighbouring authorities had, to date, not indicated any concerns about the possible use of unlicensed drivers. If Uber did apply to work in the Borough then the situation would be monitored.

RESOLVED that:

- i. A working group be set up to review a draft Licensing Criminal Convictions Policy prior to its publication for the purposes of consultation
- ii. The results of that consultation be brought back to the Licensing and Safety Committee for further consideration

14. Fees for Licensing of Private Hire Vehicle Operators

The Committee received a report setting out proposed amendments to the licensing of operators of private hire vehicles and seeking approval for the introduction of a new set of fees that would be required as a consequence.

The Deregulation Act 2015 would with effect from 1 October 2015 make the default driver licence duration three years and the default operator licence duration 5 years. The Council currently offers the option of a three year licence for drivers and operators licences but does not currently offer a five year operator's licence.

The proposed cost of a five year operator's licence had been calculated according to the administrative costs of setting up the licence in the first year and the cost of enforcement activity in the subsequent years.

To ensure that there was sufficient flexibility within the system it was proposed that the one and three year operator licence options would be retained. It was confirmed that refunds would be given on the unused portion of a five year operator's licence. If a refund was requested then the amount refunded would be less any administrative costs and would be pro rata-ed to the length of time left on the licence.

RESOLVED that the proposed charges for five year licences for private hire vehicle operators, as described at Annex A of the Chief Officer: Environment and Public Protection's report, be:

- i. Advertised; and
- ii. if no objections are received, implemented for any licences commencing from 1 October 2015; or
- iii. if objections are received they be considered at the next meeting of the Licensing and Safety Committee on the 8th October 2015

15. **Taxi and Private Hire Vehicles Licensing Councillor Handbook**

The committee received a report providing the most recent version of the Local Government Association's (LGA) Taxi and Private Hire Vehicles Licensing Councillor Handbook, which had been published in March 2015.

The Handbook had been developed by the LGA to help councillors understand the key issues in the licensing of Taxis and Private Hire Vehicles and provided a number of tools that had been developed to help them to assist with the effective regulation of the area. The handbook also detailed a number of questions that councillors might ask to gauge the effectiveness of their local authority in providing a competent licensing service and the report set out the Licensing Team's response to these questions.

The committee noted the report.

16. **Licensing Act Deregulation Update**

The Committee received and noted a report providing an update on the deregulation of activities previously licensable under the Licensing Act 2003.

17. **Exclusion of Public and Press**

RESOLVED that pursuant to Section 100A of the Local Government Act 1972, as amended, and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of the following item which involves the likely disclosure of exempt information under the following category of Schedule 12A of that Act:

- (1) Information relating to any individual (Item 16).

18. **Appeal to Magistrates' Court**

The Committee received and noted a report providing an update on a recent Magistrates Court Appeal decision following a Licensing Panel decision to turn down an application to extend the opening hours of a McDonalds restaurant in Wildridings.

CHAIRMAN