

LICENSING AND SAFETY COMMITTEE
6 JUNE 2019
7.30 - 8.54 PM



Present:

Councillors Porter (Chairman), Brossard (Vice-Chairman), Allen, Atkinson, Dr Barnard, Brown, Finch, Ms Gaw, Gbadebo, Mrs Ingham, Kirke, Leake, Mrs McKenzie-Boyle and Tullett

Apologies for absence were received from:

Councillors Brunel-Walker

4. Urgent Items of Business

The Chairman advised the Committee of an Urgent Decision which had been taken by the Chief Executive to rectify an administrative error made in the Committee's appointment, whereby 18 Committee members had been appointed at Annual Council rather than the 15 maximum permitted under the Licensing Act 2003.

Three members had stood down from the Committee, and the Chief Executive had reappointed remaining members as the Licensing and Safety Committee.

5. Election of Chairman

Further to the re-appointment of the Committee, it was

RESOLVED that Councillor Porter be elected Chairman of the Licensing and Safety Committee for the municipal year.

6. Appointment of Vice-Chairman

Further to the re-appointment of the Committee, it was

RESOLVED that Councillor Brossard be appointed Vice-Chairman of the Licensing and Safety Committee for the municipal year.

7. Declarations of Interest

There were no declarations of interest.

8. Minutes

The minutes of the meetings held on 7 February 2019 and 22 May 2019 (Annual Meeting) were approved as a correct record.

9. Notice of Public Speaking

There had been no applications for public speaking.

10. **Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire Trades**

Suzanne McLaughlin, Public Protection Partnership representative presented the report on the Institute of Licensing's Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades. Members were asked to adopt the Institute of Licensing guidance, and incorporate the time periods in relation to convictions and cautions into the existing Bracknell Forest policy.

Members discussed the report, and the following points were noted:

- Members were reminded that they could adopt the Guidance in part.
- All drivers underwent a local Enhanced DBS check, which would include a background check by local police.
- Where the Institute of Licensing column had been left blank, the conviction had not been covered in their policy.
- It was clarified that a Fixed Penalty Notice (FPN) may be issued by a Police Officer in respect of certain road traffic offences (criminal offences), such as for certain speeding offences, as an alternative to Court sanctions otherwise being imposed following conviction. Depending on the offence, Penalty Points may also be endorsed on a driver's licence either in addition to a Fixed Penalty Notice being issued for a road traffic offence or as part of a Sentence for such offence following conviction in Court.
- A conviction follows a finding of guilt in a Court of law, whereas a road traffic offence (criminal offence) dealt with by way of Police Caution, a Fixed Penalty Notice, or participation on a driver speed awareness course, outside of the Court process, does not.
- It was noted that the Institute of Licensing guidance, however, (at Chapter 4.12) defines "conviction" as including matters that amount to criminal behaviour but which have not resulted in a conviction, including acquittals at Court, cases resulting in decisions not to prosecute and cases of complaint where there was no police involvement.
- It was clarified that a Fixed Penalty Charge Notice (PCN) may be issued by authorised persons in respect of other driving contraventions (such as parking contraventions) which are Civil matters rather than criminal offences.
- Members raised concerns around a number of areas of disparity between the Institute's timescales around convictions compared to Bracknell Forest's existing policy.
- Members asked whether other authorities had adopted the Institute's Guidance, and officers agreed to look into this.
- It was noted that the consultation had received 3 responses, compared to the 331 email notifications sent out. Other authorities within the Public Protection Partnership had seem similarly poor response rates.
- Members were reminded that drives are banned for a period of time in order to protect the public as well as the Council's reputation, and was not only a punishment of the driver.
- It was suggested that if the Institute wished to create unanimity across Local Authorities, it would be difficult if Bracknell Forest were to adopt some and not all of the guidelines. Members were reminded that not all of the Public Protection Partnership authorities follow the same set of standards.
- Members queried the difference between the possession of and conviction for drug use. It was clarified that the Bracknell Forest policy currently referred to a 'single isolated conviction', which the Institute's guidelines did not. It was also questioned that 'drugs' were not defined in the guidelines.
- Members agreed that the current Bracknell Forest policy had some poor phraseology and needed reviewing.

- The Committee recognised that taxi drivers had paid attention when it had amended guidelines in the past, which had led to improvements in areas such as notifying of driving penalties.
- To alleviate concerns that drivers may not be aware of the change, officers agreed that drivers would be asked to sign and confirm they have received and read the new policy, if implemented.
- It was understood that Wokingham and West Berkshire would be adopting these guidelines at their upcoming Committee meetings.
- Members raised concerns around the lack of differentiation between convictions or non-convictions in the guidance, and wished for these to be specified and separated into convictions and non-convictions before supporting the guidance going forward.
- Members asked officers to reconsider the wording around timing of convictions and non-convictions, to ensure clarity.
- Members asked to see a working draft version of the new timelines before the Committee meeting in September.
- While Members agreed with the general principle of aligning the policies across the Public Protection Partnership and nationally, it was not felt that the guidance could be adopted in its current format and wording.

Members did not support the recommendations, and requested that the report be presented again at the next meeting.

11. **Disability awareness training**

Suzanne McLaughlin presented the Disability Awareness Training report. The report outlined feedback received since the Committee agreed to consult the trade on training proposals.

It was recommended that new drivers be required to undertake training prior to a licence being granted, and existing operators be required to attend within 12 months of the training being implemented, and then every 3 years thereafter.

Responses received were expected to be the same as those who had responded to the Institute of Licensing guidance consultation, as three responses had been received for both consultations.

In response to questions, members noted the following points:

- Members stressed the importance of drivers being aware of all disabilities, including those which were unseen.
- Training would be delivered in a three-hour classroom session.
- Members drew connections to the Child Sexual Exploitation / Safeguarding training and proposed that drivers might be checked on their understanding in this area following a similar training initiative.
- Members were concerned at the lack of engagement and response from drivers on this issue and asked whether there were other ways of communicating key areas of consultation to drivers. Members were reminded that all consultation is published on the Council's website. It was agreed that communication was key to engagement, however members recognised that ignorance of the law was no excuse for poor conduct.
- The training would cost £50 under the proposed provider and would be at a cost of the drivers.
- There was not currently a trade association for drivers in Bracknell, although some consultees were operators who could represent multiple drivers.

The Committee discussed the matter, and it was

RESOLVED that

- 1 the responses to the consultation that has been carried out be reviewed and considered;
- 2 disability awareness training be carried out by all new driver and operator licence applicants before a licence is granted and thereafter on a three yearly basis, and that all existing driver and operator licence holders attend the same training within the 12 months following the first training session, and thereafter on a three yearly basis.

12. **CCTV conditions**

Matt Howlett presented the CCTV Conditions report. It was proposed to add a paragraph to existing policy around CCTV in licensed vehicles to enable the Council to stipulate that the driver may need to have a CCTV camera installed on home to school transport routes. The Council would supply cameras which could be easily installed and removed by the driver depending on the route, and all footage and information would be owned by the Council. The proposal aimed to safeguard both young people and drivers.

In response to questions, the following points were noted:

- Members recognised that the proposal was contrary to existing guidance which required CCTV to be wired into the vehicle's ignition. Members agreed that if such cameras were made mandatory on home to school routes, they would need to be easy to install and use.
- It was clarified that the clause to be added gave the Council the power to make cameras mandatory on home to school routes, and that they were not yet a requirement.
- It was noted that this recommendation arose relating to challenging behaviour of some children on home to school transport, relating to their behavioural diagnosis.
- Members agreed that the additional clause protected both children and drivers.

Having discussed the matter, the Committee **RESOLVED** that

- 1 The proposed amendment to CCTV conditions be agreed, as outlined in the report.

13. **Annual report**

Suzanne McLaughlin presented the Public Protection Partnership's Annual Report, which detailed licensing activity across the last financial year. The report also included comparable data across the three Partnership authorities.

Officers noted that the report included specific information around the scope of work regarding complaints and requests, and more detail around the types of inspection being carried out.

Members discussed the report, and the following points were noted:

- It was understood that the number of drivers who had failed to notify the authority of conviction, caution or fixed penalty notice had dropped as a result of the Committee increasing the number of points attributed to this offence.
- It was clarified that only Thames Valley Police had the power to stop a taxi for a check, and so all checks for serious convictions were conducted in partnership with the Police.
- It was noted that Transport for London had adopted a policy to authorise their officers to stop taxis without the Metropolitan Police, however officers understood that this was conducted under different powers were held locally.
- Members requested to attend taxi checks with Licensing Officers, when the next opportunity arose. Matt Howlett suggested that Members might attend checks on the Home to School vehicles.
- It was noted that the Public Protection Partnership did not receive very much feedback, either compliments or complaints

The Committee thanked officers for their report.

CHAIRMAN