



Buckinghamshire Council

Licensing Committee

Minutes

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD ON TUESDAY 7 NOVEMBER 2023 IN THE PARALYMPIC ROOM, BUCKINGHAMSHIRE COUNCIL, GATEHOUSE ROAD, AYLESBURY HP19 8FF, COMMENCING AT 6.30 PM AND CONCLUDING AT 8.07 PM

MEMBERS PRESENT

A Baughan, D Dhillon, P Gomm, T Green, J Rush, D Town, J Towns and A Wood (Vice-Chairman, in the Chair)

OTHERS IN ATTENDANCE

S Gallacher, A Thomlinson, L Vallis, E Cook, J Bowles and C Crelling

Agenda Item

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Joseph Baum, Nick Southworth, Sir Beville Stanier Bt and Heather Wallace.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting held on 5 September 2023 were agreed as a correct record.

4 BUCKINGHAMSHIRE COUNCIL DRAFT ANIMAL LICENSING POLICY

In accordance with the Animal Welfare Act 2006, Buckinghamshire Council, in its role as Licensing Authority, was responsible for licensing operators of businesses carrying out prescribed activities involving animals. In addition, the Council was also responsible for licensing keepers of animals that were defined as dangerous wild animals and for the licensing of zoos.

There was currently no animal licensing policy covering the Buckinghamshire Council area. Whilst there was no statutory requirement for a policy under any of the legislation relating to these types of licence, it was considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to animal licensing. The adoption of a policy supported the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

The draft Animal Licensing Policy ("the Policy") provided guidance on the various application processes, a brief overview of relevant legislation and links to statutory guidance. The legislation and regulations, under which animal licences were issued, required the Council to determine,

among other factors, whether the applicant was suitable or in the case of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 “fit and proper” in terms of their ability to comply with licence conditions and to be an operator for that type of activity. Whilst there was no legal definition of “fit and proper” in the regulations, the Policy provided an opportunity to outline matters, which the Council would take into consideration when deciding if someone was suitable to hold a licence.

As well as the need to comply with the different statutory licensing requirements, it was of public interest to ensure the general safety and wellbeing of animals, those responsible for them and members of the public who might come into contact with them. The adoption of a policy would also give the Council an opportunity to set out its expectations around safeguarding for operators of businesses whose activities took place around children and vulnerable persons.

On the 11 April 2023, the Licensing Committee approved a new draft Animal Licensing Policy for consultation. The Policy had now been subject to a full consultation process, which ran from 20 April 2023 to 31 May 2023. The purpose of this report was to provide feedback on the responses received as part of the consultation and to identify any changes to be made to the draft Policy in response to the consultation.

In total there were 26 responses to the consultation survey. 25 were received via the online consultation through Your Voice Bucks and one response was posted to the Council. The summary of these responses was attached as Appendix 1. The comments provided with responses were shown in Appendix 2. Following this consultation process, the draft Policy with proposed amendments was attached as Appendix 3. A summary of the proposed amendments was set out in section 2 of the report.

If approved by Committee, an implementation date for the new Animal Licensing Policy would be agreed between the Chairman of the Licensing Committee and the Head of the Licensing Service, taking into consideration any practicalities such as updating the Council’s webpages, application forms and processes.

Members were invited to ask questions of officers. A Member asked why it was that the fee for a dangerous wild animal renewal application was cheaper than a new dangerous wild animal application, but the renewal for a zoo application was more expensive than a new zoo application. In response, officers explained that the licensing service was now going through a process to review the fees and there would be a paper coming to the Licensing Committee on fees in February. It was agreed that the Member’s question would be answered in the report, which would be submitted to the February meeting.

A Member raised a concern regarding the requirement for applicants to provide evidence of a Disclosure and Barring Service (DBS) check and was of the opinion that the requirement should not be included in the Policy. The Member commented that the requirement was additional bureaucracy, which wasn’t necessary and that it only showed known information on the applicant at the time of the check. The check also did not, as far as they were aware, include animal welfare offences. The Member also argued that the Government did not think a DBS check was required, as it was not covered in the legislation.

In response to the Member’s concern regarding the requirements for applicants to provide evidence of a DBS check, officers advised that although there was no specific requirement to provide a DBS check in the legislation under which these licences were issued, the legislation was clear that the Council must be satisfied that an applicant was suitable and, with regard to Licensing of Activities Involving Animals (LAIA) licences, that the applicant should provide whatever information the Local Authority required as part of the application process. There was

currently no central database to record animal welfare offences or disqualifications relating to animals to check against. In addition, there was a recognition that other types of offences might need to be taken into consideration if they indicated that an individual was not suitable to be granted a licence to operate that type of business or unlikely to be compliant with licence conditions, such as violent offences and fraud. A DBS check was also more likely to deter those not suitable from applying for a licence. For all these reasons, it was felt appropriate to include this requirement in the Policy and was considered a proportionate requirement to be made of applicants in order to assist in satisfying the Council that it was granting licences to people who were suitable. Furthermore, a clear majority of those who responded to the consultation agreed that applicants should provide evidence of a DBS check to hold a licence.

It was noted that the Council would not be able to ask for an enhanced disclosure and would only be able to ask for a basic disclosure. With regards to whether animal welfare offences would show on a DBS check, officers clarified that it was not that no animal welfare offences would show on a DBS check, but that a DBS check would possibly not show any convictions for prosecutions undertaken by the RSPCA or the Local Authority. However, officers had checked with the Disclosure and Barring Service and Local Authorities could add their convictions onto a DBS.

A Member raised the issue of goldfish being given away as prizes at fairs in Buckinghamshire and asked whether this would be covered under the Animal Licensing Policy. Officers advised that this would not be covered by the Animal Licensing Policy given the nature of that type of trader. The Council wouldn't be able to licence them for selling animals as pets as they were unlikely to be based in the area. They would have to be licenced in the area they were based and the Local Authority, where they were based, would then have to prove that they had a trading income that required them to have a licence. The Council was aware of the welfare concerns around goldfish being given away as prizes and did not approve of the practice. Over the summer when this issue was raised, officers contacted the Green Spaces Team and provided them with the information on the licensing position, but then recommended that if the Council had its own land, which it was hiring or leasing, then it might be possible to impose a condition to not allow pets to be given as prizes.

Officers clarified the circumstances in which someone who breeds a family pet would require a licence and explained that it depended on whether they were acting commercially or not. Officers advised that anyone, who was not sure if they required a licence, should contact the licensing service for advice. In response to a question regarding what impact the Dangerous Dogs Act would have on this Policy, officers explained that it was unlikely to have much of an impact. The Council was aware of the XL Bullies ban, which would be coming into effect from the 31 December 2023, and the Council would be contacting any of its licence holders, that were currently involved in dog breeding or the boarding of dogs, to sign post them to the Government guidance. Officers were not aware of anyone holding a licence to breed XL Bullies in Buckinghamshire. To date there had only been one or two enquiries on the matter.

On a vote being taken the recommendation was proposed by Cllr Dhillon and seconded by Cllr Gomm and:-

RESOLVED that the final version of the Animal Licensing Policy, as set out in appendix 3, be agreed with an implementation date to be agreed with the Chairman of the Licensing Committee and Head of Licensing Service.

5 HACKNEY CARRIAGE FARE REVIEW

The Committee received a report on the proposal to restructure and increase Hackney Carriage fares (tariffs) for the Buckinghamshire Council area. The proposal had been made in light of significant increases in costs and further to requests from the licensed hackney carriage trade. The Committee were asked, in advance of a Leader Key Decision, to note and comment on the proposals. It was noted that it was a Leader Key Decision and not, as was stated in the report, a Cabinet Member Decision.

Where tariffs were set by the local authority, drivers of hackney carriage vehicles (taxis) could not charge more than the maximum specified fare, apart from in certain exceptional circumstances, although they could charge less. Local authorities had no powers in relation to setting the fares charged for the use of private hire vehicles. Buckinghamshire Council currently licenced approximately 340 hackney carriage vehicles and 2025 private hire vehicles.

The process and requirements for the fixing of fares for hackney carriage was set out in Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and included the requirement for advertising and a statutory 14-day consultation period. There was no prescribed methodology for calculating maximum fares and each local authority was responsible for adopting its own approach to devising local rates. Common methods included a consideration of changes to inflation, associated vehicle running costs, comparisons with other licensing authorities and the views from the hackney carriage trade.

Buckinghamshire Council first introduced a single set of hackney carriage tariffs in September 2021. It was intended that an annual review of fares would take place each April, starting 2023, taking into account any rise in CPI figures along with local and national benchmarking. However, significant increases in fuel prices and other costs faced by the trade in 2021/22 led to this review being brought forward and a revised schedule of fares was introduced in August 2022.

The licensing service had received a further request from the hackney trade representatives to review the fares once again. The service had met with trade representatives on a number of occasions to discuss this request and representatives had produced a number of reasons and supporting information to justify the request for a review. The basis for the review was on two grounds, firstly in response to significant increases in costs impacting the trade and secondly because it had been identified that there were anomalies with the fare structure introduced last August 2022 that the trade would like to see rectified.

The licensing service had also conducted its own research, reviewing changes to CPI and other influencing factors such as fuel prices and motor insurance premiums. An analysis of fares charged nationally and locally in neighbouring local authority areas had been conducted. Of particular interest was the finding that average hackney carriage fares had increased nationally by 16% since fares were last reviewed by Buckinghamshire Council in August 2022.

Arising from the trade meetings, the hackney trade representatives had put forward a new fare structure that they would like Buckinghamshire Council to adopt. The new structure was simpler to understand and implement and would provide greater clarity for the trade and customers, with a clear distinction between higher tariffs. The proposal included an increase in the minimum fare to ensure drivers were appropriately recompensed for waiting times between fares and short journeys. The proposal also included a request to increase fares across the board, to compensate for increased running maintenance costs and greater “dead” mileage as a result of working in a larger authority area. A significant increase was proposed to tariffs 2 and 3 to reflect the unsociable hours and encourage drivers to make themselves available at these

times. The new structure, if approved, would more readily lend itself to CPI increases as percentage increases could be simply applied to all tariffs proportionately. It was also proposed that the current maximum soiling charge be increased from £50 to £100. The current maximum charge of £50 was not considered adequate to cover the cost of valeting the vehicle and time that the driver might be off the road while the vehicle was being cleaned. The proposed £100 charge was a maximum and could be scaled accordingly.

The proposed new tariff of maximum fares was shown as Appendix 2. With regards to next steps, officers advised that following this committee meeting, a key decision report would be prepared and presented to the Leader of the Council incorporating any comments made by the Licensing Committee for consideration. If the Leader of the Council was minded to approve the proposed fares, as set out in appendix 2, they would then go out to public consultation for a period of two weeks. Should there be any objections raised during the consultation, the matter would then be referred back to the Leader of the Council for a final decision to be made within two months of the consultation exercise.

Members were invited to ask questions of officers. In response to a question, officers clarified that whilst drivers of hackney carriage vehicles could not charge more than the maximum specified fare, apart from in certain exceptional circumstances as set out in the report, they could charge less. Following a question regarding the use of credit cards, officers advised that hackney carriage drivers could take card payments, but they were not able to charge an additional amount for card payments and that drivers had to cover the costs associated with taking card payments.

With regards to “dead” mileage as referred to in paragraph 3.9 of the report, a Member of the Committee asked whether legislation would allow for the reintroduction of zones based on the old district authorities’ areas. In response, officers advised that the Council could not reintroduce zones. The Council could in theory have a fare structure that took different areas into account, but that would be hard to work in practice and would be very complicated. One of the benefits of the proposed fare structure was that it would be simpler to understand and implement and would provide greater clarity for the hackney carriage trade and customers.

In the discussion which followed, a Member of the Committee asked whether consideration could be given to also include Eid in Tariffs 2 and 3 to encourage drivers to make themselves available during this time. In response, officers advised that this had not been raised by the hackney carriage trade, but it was something that could be put forward in the Leader’s report for consideration. In the meantime, officers would speak to the hackney carriage trade to find out their views on it.

A Member of the Committee recognised the increase of costs to the hackney carriage trade as set out in the report and how this could impact on the service they were providing. Another Member of the Committee stated that they were comfortable with the proposed increase given the significant increases of costs to the hackney carriage trade and the need for the hackney carriage trade to make a decent living. The Member added that the proposed tariff structure would also give the hackney carriage trade the option to be competitive if they wanted. Furthermore, customers would still be able to make a choice.

RESOLVED that, in advance of a Leader Key Decision, the proposal to restructure and increase Hackney Carriage fares (tariffs) for the Buckinghamshire Council area, in light of significant increases in costs and further to requests from the licensed hackney carriage trade, be noted and that the comments of the Committee, as set out in the minutes above, be fed back to the Leader of the Council.

6 HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING ANNUAL REVIEW

The Committee received a report on the Hackney Carriage and Private Hire Licensing Annual Review. Prior to service alignment following the creation of the new Unitary Council in April 2020 and the implementation of the Council's new Hackney Carriage and Private Hire Licensing Policy, the Licensing Service committed to providing reports to the Licensing Committee related to service delivery and policy impact. This was the second annual report, focusing on the period 1 October 2022 through to 30 September 2023.

The report provided an overview of application outcomes, an update on enforcement activity, key changes to service provision and improvements in service delivery, legislative changes and other matters considered to be of relevance or interest to the Committee such as communication with the trade, updates on safeguarding training and English language assessments. The report also contained an overview of hackney carriage and private hire related matters on the horizon that were likely to impact the service and the trade over the coming year. Financial considerations such as income, expenditure and other budgetary matters had been excluded from the report. A separate report was being prepared for consideration by the Licensing Committee at a future meeting and this information would form the basis for licence fee review.

As part of the introduction to the report, the Principal Licensing Officer explained that an error had been made in the information provided in appendices 1 and 2, as not all the information for the month of October 2022 had been included. Updated versions of appendices 1 and 2, which included all the October 2022 information, were circulated to Members of the Committee at the meeting. These would be made available on the Council's website. The Principal Licensing Officer went through the report highlighting the updated information and an updated copy of the report, showing this updated information, would also be made available on the Council's website.

Members were invited to ask questions of officers. A Member asked what the difference was between a renewal and a new licence application and whether new applications were made by new drivers. In response, officers explained that licences were granted for 3 years and drivers were required to renew their licence before the 3 years expired. Often drivers, for whatever reasons, despite receiving reminders from the Council, did not reapply on time. If a driver did not apply by the expiry date, they were required to apply for a new licence. Therefore, not all new applications were made by drivers who were new to the trade.

A Member expressed concern over the number of offences being carried out by drivers in the trade. Officers explained that there was a national picture around the hackney and private hire trade where a minority of people working in those trades had been associated with criminal activity, particularly around child sexual exploitation. As a result of this, the Department for Transport published new standards for taxi and private hire vehicles in July 2020 with the aim of safeguarding children and vulnerable adults from abuse and exploitation. The Council had implemented everything within that statutory guidance in its new Hackney Carriage and Private Hire Licensing Policy. The report being presented showed that the Council acted in a robust, consistent and thorough manner to ensure public safety. Public safety was the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. It was also important to note the offences being committed by drivers were being carried out by a minority of drivers and that the vast majority of drivers in Buckinghamshire were law abiding citizens who carried out their role in an effective way.

A Member commented that there was an issue in High Wycombe with a number of hackney carriage and private hire vehicles parking on pavements and on corners in breach of highway

code rules 243 and 244. The Member asked officers whether the licensing service would be able to take action if it was sent photos of vehicles breaching these rules. In response, officers advised that they would encourage anyone to report a vehicle, which was in breach of the highway code. A significant number of complaints the service received were related to parking matters and every complaint received was thoroughly investigated.

In response to a question, regarding whether there had been an increase or decrease in the numbers of drivers who had been refused a licence compared to last year, officers advised that there has been a slight increase in the number of drivers who had been refused a licence this year compared to last year. There had been an increase in the number of applications received overall this year compared to last year and therefore a slight increase in the number of drivers who had been refused a licence was not unexpected.

RESOLVED that the report be noted.

7 DATE OF NEXT MEETING

It was noted that the date of the next meeting was 27 February 2024 at 6.30pm.