

Licensing Committee

4 JULY 2016

PRESENT: Councillor J Brandis (Chairman); Councillors M Hawkett (Vice-Chairman), P Cooper, A Huxley, S Lambert, T Mills, G Powell, S Renshell and B Russel

APOLOGIES: Councillor Sir Beville Stanier Bt

1. TEMPORARY CHANGES TO MEMBERSHIP

There were none.

2. MINUTES

RESOLVED –

That the minutes of the meetings held on 9 and 18 May 2016 be approved as correct records.

3. REVIEW OF TAXI AND PRIVATE HIRE LICENSING POLICY

The Council's current policy on taxi and private hire had been last reviewed in 2010. Over the years it had been subject to various specific changes resulting from decisions made by Licensing Committee often arising from a change of law and practice or a specific request. Examples included changes to advertising on vehicles, the introduction of the penalty point system for enforcement and more recently an updated policy on criminal behaviour and unacceptable behaviour.

In recent years the Council has undergone a number of significant changes particularly in respect to the introduction of new technology. This had in turn been reflected in the administration of licences. In this respect alone the Council's policy required updating. The taxi licensing team had also implemented changes, in consultation with the Chairman of Licensing Committee without formally updating the policy. For example, arrangements in relation to medicals and driver competency.

All operators were contacted and informed of the Council's intention to undertake a review. They were advised that this was an opportunity to revisit some of the standards and conditions imposed by our current policy and to take a view as to whether some should be relaxed and others tightened. Although views on any aspect of the Council's policy would be welcomed, they were specifically sign posted on the following.

- Existing vehicle conditions, age limits, types of vehicle and signage;
- Operator licences;
- Driver application process, including medicals, knowledge test and English language tests; and
- Enforcement, including penalty points system and policy on criminal conduct.

Following consultation with the trade, 25 responses were received and these were attached as an appendix to the report. It was noted that many of the comments were irrelevant in the context of shaping policy and either criticise or praise the current service. However, some comments were perhaps worthy of further consideration. Examples being a re-consideration of the current rules on age limits, rules relating to licensed operators, English language testing and the design of hackney carriages.

It was also noted that a number of drivers staged a spontaneous protest on 3 June 2016 arising from a joint police and licensing enforcement initiative. With the help of a small number of key operators the protest was short lived and uneventful. However they were once again asked to put their various grievances in writing. Also attached as an appendix to the report was a letter from the Private Hire Association.

In 2012 the Law Commission published a draft Taxi and Private Hire Bill and Members contributed during the consultation. Unfortunately this piece of much needed work to provide National standards and conditions never reached fruition. However, at that time the scourge of child sexual exploitation had not been revealed to the extent that it now occupied policy making and regulatory decisions. It was speculated that if a new bill were to be published it would not merely attempt to update historic legislation but focus on a whole range of different priorities.

During 2015 the Casey Report had been published criticising Rotherham Borough Council's corporate failure to protect young and vulnerable people. In response AVDC's licensing service carried out a thorough review of its own procedures and policies and found them to be significantly superior to arrangements in Rotherham at that time.

As recently as May 2016 Mary Ney, Commissioner of Rotherham Borough Council produced an update for the Local Government Chronicle and this was also attached as an appendix to the report. In respect to her comments relating to the 'fit and proper' test, AVDC already met the more stringent arrangements only recently introduced by Rotherham and relationships and intelligence sharing with partners is enviable by neighbouring authorities.

However Rotherham had introduced additional initiatives. Examples were BTEC certificate training, safeguarding training, insisting that drivers subscribe to the Disclosure and Barring Service online update service which notified the Council of any changes to criminal records and perhaps more controversially the installation of cameras in taxis.

From the comments received from the trade to date, it was suspected that any additional burdens placed on them would not be received well. The Council's licensing services had always endeavoured to work with the trade whilst not compromising public safety. At this stage Members were not asked to make any specific decisions but provide a general steer as to what should form part of the Council's revised policy. A new draft would be drawn up and brought back to Licensing Committee in September 2016.

Members welcomed the opportunity to comment on the replies received following consultation with the trade and the other documents attached to the report.

The idea of having CCTV in all Hackney Carriages and private hire cars was welcomed in principle; however Members acknowledged that not all drivers would welcome it. Members also queried how footage would be monitored, how long it could be kept for and how much benefit it would give to drivers and passengers. Before any decision could be made regarding CCTV, officers were asked to investigate further and report back at a later date.

With regards to the age of vehicles, although Members acknowledged that there were many older executive type vehicles on the market that could be used as private hire vehicles they had concerns about the amount of mileage a vehicle clocked up in a year and the eventual wear and tear to a vehicle. Although lease hire vehicles were an option for drivers this had been looked into and could prove problematic for drivers. It was acknowledged that passenger safety was paramount.

Members were also concerned that a number of Hackney Carriage and Private Hire vehicles were already starting to deteriorate and needed replacing in the near future.

Members also referred to the responses regarding medicals. Suggestions in the responses to the consultation included less medicals for those under 45 years of age or for medicals to match those of bus drivers. Officers reported that because of issues in the past when drivers would go to their own GP for a medical, the Council had recently agreed that drivers can go to any GP as long as they are registered with a practice.

Unfortunately, due to one company operating a low fixed price system some years ago, many other drivers and operators had had to lower their fares in order to compete. The public now expected the low charges and many drivers were finding it hard to make a living. The Council had no control over fares charged by private hire vehicles only those of Hackney Carriages. Any overcharging by Hackney Carriages was dealt with by enforcement.

There was concern that the penalty points system had in some cases been too vigorous, with drivers incurring penalty points for quite minor "offences" such as damage to a vehicle caused by a customer. However, there was a right of appeal and in a number of cases the Licensing Manager had removed the penalty points. The system would be reviewed in due course.

A number of respondents to the consultation had complained about the length of time it took to get through on the phone to officers. This had been reviewed and calls would in future go direct to the Licensing team. The team would also be increasing its number of staff.

Members felt that although there were very good sat-nav. and smart phone systems in place, all drivers should undergo some form of knowledge test and English language test.

It was also felt that all drivers should be made aware of Safeguarding issues and undergo some form of training. Bucks County Council had introduced training for their drivers. However, officers would need to investigate types of training and report back on this.

RESOLVED –

That Members noted the report and the comments made by the trade, the policy developments recently introduced by Rotherham Metropolitan Borough Council and agreed the changes identified above to be included in a future policy for Aylesbury Vale District Council.

4. REVIEW OF DELEGATIONS RELATING TO TAXI AND PRIVATE HIRE LICENSING MATTERS

In 2010 the Licensing Committee agreed to authorise the Licensing Manager, in consultation with the Chairman of Licensing Committee to have the delegated power to refuse applications and suspend and revoke existing licences. This had been introduced to afford greater flexibility and speed in respect to this aspect of decision making. In practice it had worked effectively and successfully. Decisions to impose a regulatory sanction had been sound and robust and, to date, never overturned on appeal.

Nevertheless the process of refusing, suspending and revoking a licence could be time consuming, particularly if the decision was subsequently subject to appeal. On those occasions the Licensing Manager, as the officer responsible for the decision, became

the key witness for the Council. Effectively the Licensing Manager had to prepare a detailed statement and pull together all relevant evidence and attend court.

In recent years with a changing climate in taxi licensing the use of regulatory sanctions had increased. In addition the Deregulation Act introduced in October 2015 had significantly changed the rules relating to cross border hiring and as a consequence Aylesbury's taxi licensing service had seen a five-fold increase in driver applications between April 2015 and April 2016.

In order to meet this very significant demand the taxi licensing team had had to increase its administrative and enforcement resources and structure itself effectively to ensure an efficient processing service but also one that is robust and strict. In order to meet the demand, the delegated power to refuse, suspend and revoke licences needed to be extended to more officers.

It was proposed that these powers be delegated to the existing Taxi Licensing Officers, of which there were currently two. In practice their decision making would be in conjunction with the Licensing Manager to ensure consistency and a level of experience to the decision and, in the case of more controversial decisions the Licensing Manager would undoubtedly lead. However this would ensure that the taxi licensing team had sufficient resources and resilience.

RESOLVED –

1. That the Licensing Officers and the Licensing Manager be authorised, in consultation with the Chairman, or in his/her absence, the Vice-Chairman of the Licensing Committee, to refuse applications for, or suspend or revoke existing hackney carriage and private hire licences.
2. To authorise the Licensing Manager to further delegate the authority to refuse suspend or revoke hackney carriage and private hire licences in consultation with the Chairman or Vice-Chairman of the Licensing Committee.

5. THE INTRODUCTION OF AN ADDITIONAL CONDITION TO THE STREET TRADING CONSENT HELD BY PAULA'S PETALS

Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Aylesbury Vale District Council had designated certain areas of Aylesbury town centre as 'Consent Streets'. The effect of this was that in order for a trader to trade in those areas lawfully, a Street trading Consent was necessary. Such a system was designed to control itinerant traders as trading without consent was illegal.

Over the years since the establishment of the consent streets trading pitches had been designated for both daytime and evening trading.

A long standing pitch held by the florist, Mrs P Clarke trading as Paula's Petals was situated in the Market Square adjacent to the Clock Tower and on non-market days provided colour and interest to the square. On market days, although continuing to trade under the auspices of a Street Trading Consent Paula's Petals traded alongside market traders who are under the management and control of the Town Centre Manager and Market Manager.

The Town Centre Manager took control of the market during the latter part of 2012 and had made significant changes. The terms and conditions for market traders had been re-written to address issues such as attitude and behaviour and stricter controls introduced in respect to the sale of products. Market traders were now authorised to trade under licences which they have to display and thus demonstrate to the public that

they have been vetted and were under strict management. In addition new stalls and covers had been provided and the layout of the market re-designed to permit fairness and make it more aesthetically pleasing.

The Tuesday 'bric-a-brac' market had been replaced by a vintage and craft market. Paula's Petals had been trading in the Market Square for many years under the authority of a street trading consent, rather than the rules and regulations covering market traders. Such an arrangement was appropriate as she traded six days a week as opposed to the four days that the market traded. However as far as the general public were concerned and indeed other market traders Paula's Petals was, on the face of it, another market trader on market days.

Mrs Clarke had co-operated with the various changes to the market introduced in recent years. However the Town Centre Manager had suggested that on market days the day to day management of this particular street trading pitch came under the control of the Market Manager. Although not subject to the same terms and conditions applied to market traders, it would enable the Market Manager to exercise an element of control and flexibility necessary when managing a market. It would also improve the general trade relations as the current inconsistent management of market traders and Paula's Petals had caused some resentment in the past.

This proposal had been set out in writing to Mrs Clarke and she had been given the opportunity to comment.

It was therefore recommended that an additional condition be added to the existing consent conditions for this particular pitch as follows:-

"During Market Days the Consent Holder will comply with any reasonable request made by the Market Manager in respect to both compliance with the conditions of their consent and any alteration of the trading area to ensure its compatibility with the overall Market. Failure to comply with any reasonable request of the Market Manager will be construed as a breach of the Street Trading Consent. In any event the Consent Holder must comply with all Aylesbury Vale District Council policies". A copy of the current conditions attached to the Street Trading Consent were attached to the report as an appendix.

Members commented on other traders who had either been granted consent in the past to trade from Market Square or had pitches close to the market.

RESOLVED –

That a new condition, as set out in paragraph 3.7 of the report and outlined above, be added to the street trading consent held by Mrs P Clarke, trading as Paula's Petals which would effectively enable the Market Manager to ensure compliance on market days.