



## Licensing Committee minutes

Minutes of the meeting of the Licensing Committee held on Thursday 22 July 2021 in The Oculus, Buckinghamshire Council, Gatehouse Road, HP19 8FF, commencing at 6.30 pm and concluding at 8.11 pm.

### Members present

J Baum, N Southworth, B Stanier Bt, D Town, H Wallace, D Watson and A Wood

### Agenda Item

#### **1 Apologies for absence**

Apologies for absence were received from Cllrs Dominic Barnes, Richard Gaster, Paul Griffin, Caroline Jones, Nabeela Rana, Jonathan Rush and Gurinder Wadhwa

#### **2 Declarations of interest**

There were no declarations of interest.

#### **3 Minutes of the previous meeting**

The Minutes of the Meeting held on 30 June 2021 were agreed as a correct record.

#### **4 New Statement of Licensing Policy, Licensing Act 2003**

The Committee received a report on the draft Licensing Policy. The Licensing Authority had a legal obligation to publish a licensing policy statement, 'Policy', which set out its approach to promoting the licensing objectives when performing its licensing functions. A Policy must be published every five years under the Act, following a period of formal consultation and review. The Council's licensing service was currently operating under separate legacy policies reflecting the four former district council areas. Under the terms of the transitional legislation, Buckinghamshire Council had two years to prepare and publish a new single licensing policy under the Act and align service provision. The deadline for publication and implementation of the new Policy was no later than 1 April 2022. A pre-draft policy consultation exercise had been carried out and the results have helped shape Buckinghamshire Council's first draft Licensing Policy Statement. 107 individual responses were received which were broadly representative 30% from residents, 23% from businesses and 35% from councillors. Broadly there was support from those consulted to the new draft licensing policy.

It was proposed that historic cumulative impact and special hour's policies were not included in the new draft Policy due to lack of sufficient required supporting

evidence. 'Cumulative impact' was about the concentration of licensed premises in a particular area and the impacts of this. Currently only Aylesbury town centre had a cumulative impact policy. Evidence from the police and local residents had historically supported the view that a high concentration of late licensed premises has had a detrimental impact and contributed to public nuisance and crime and disorder. The police's view was that the historic cumulative impact policy had been an effective tool in containing the negative impacts of late night licensed premises.

Whilst these views were valid they must be balanced against the available evidence provided and the views of all stakeholders. While there were clear concerns from the police that the removal of the cumulative impact policy linked to "high risk premises" would lead to an increase in crime and disorder related issues (and therefore in the costs of policing), the available evidence at this stage was arguably inconclusive. Furthermore, over 82% of stakeholders responding to the survey support the view that the cumulative impact should be removed but kept under assessment going forward. Cumulative impact policies could be re-introduced if supported by an assessment of the available evidence and this would be kept under review over the next 12 months with a further report to the Licensing Committee.

Five other areas were mentioned in the survey as being impacted by a high concentration of licensed premises: High Wycombe, Marlow, Beaconsfield, Buckingham and Amersham on the Hill. While no supporting evidence had been submitted to support this view at this stage, these areas would be closely monitored by the licensing service with a view to considering the introduction of CIA policies if evidence supports this approach.

There was also a terminal hour's policy for Buckingham due to students from the university and disturbance to residents living in close proximity. While opinion from respondents was split (46% supportive of removal and 47% supportive of retention), it appeared that there was insufficient evidence at present to support the retention of a special hour's policy for Buckingham.

Members noted that the Policy was also an opportunity to promote and encourage adherence to other council policies, priorities and strategies. A number of such areas have been identified, many of which not only promote the licensing objectives but also Buckinghamshire Council's key priorities such as safeguarding children and the public health policy.

Subject to agreement by the Licensing Committee, the draft Policy would be consulted upon widely for a period of 6 weeks. The results of the consultation would be reported back to the Licensing Committee for further consideration prior to referral to Full Council for adoption.

During discussion the following points were made by Members:

- A Member expressed concern of removing the cumulative impact policy on current license holders which could open them up to more competition

when they were trying to bounce back from the pandemic. The Principal Licensing Officer reported that the normal consultation channels had been used during Covid as previous years so that there should not be any difficulty for anyone putting a response forward.

- The Member above also asked a question regarding what weighting was given to comments from councillors and the police as it could be easy to skew the figures of the general public with getting people to reply on one particular area. The Principal Licensing Officer reported that no weighting was applied but there was 82% in favour across the board from all stakeholders. Licensing authorities should give significant weight to comments from the responsible authorities particularly the police. The decision was not taken lightly but had to be made on the evidence produced but that was why they were considering doing a review in 12 months. The Transition Head of Licensing, Cemeteries and Crematoria Services reported that they had extensive conversations with the police as the lead agency for crime and disorder. There had been a decrease in violent crime therefore there was no link between the licensed premises and crime. The comment from the local police was that the problem occurred for them at closing time when all the premises closed at the same time. If this restrictive policy was not in place there could be premises that have different closing times to stagger the impact. Licensing officers would work with the police to look at the data and collect evidence and if this policy was reintroduced it would need to be considered in the context of the whole of Buckinghamshire not just Aylesbury.
- Reference was made to having a one size fits all policy across Buckinghamshire which was very diverse. It was noted that the cumulative impact policy had been implemented in Aylesbury previously because of past crime and disorder issues, which were no longer there. Over the next 12 months Licensing Officers would be looking at particular areas across Buckinghamshire where concerns had been raised to see if it met the threshold for a cumulative impact policy. If there was any evidence, then this would be presented to the Committee for a decision on whether this policy should be imposed or reinstated. The Member commented that 12 months from now the County would still be coming out of the effects of the pandemic and the Transition Head of Licensing, Cemeteries and Crematoria Services agreed that this was not an entirely representative period and that they may need longer and the date of 12 months was a target date to have a discussion with the Committee who may not wish to make a final decision at that time.
- A comment was made on the need to level up the policies rather than level down and apply the Aylesbury policy across the County. The Member also commented that the survey sample was too small. The Principal Licensing Officer referred to the change in legislation in 2018 that the cumulative impact assessments should be put more on a statutory footing and the guidance was clear that evidence was needed to support this decision. The evidence base needed to be regularly scrutinised. The Member commented that he felt that the evidence base to take it away was not strong enough.

The Transition Head of Licensing, Cemeteries and Crematoria Services reported that whilst the policy could be removed this did not take away the control of the Council and the police and they could call a review of a licence at any time in relation to the four licensing objectives. Any new application had to go out to public consultation and gave residents the opportunity to object and if objections were received would need to be considered by Licensing Sub-Committees.

- A Member commented that this was a draft Licensing Policy which was going out to consultation so at the end of the consultation Members could review the comments made on the cumulative impact policy to see if it was the right approach to remove it. The Transition Head of Licensing, Cemeteries and Crematoria Services reported that following the consultation they would analyse the data and present the report to the Committee with a recommendation and it would be a decision for Members on how they wished to proceed.

On a vote being taken (proposed by Cllr Wood and seconded by Cllr Baum) five were in favour with two abstentions and it was **RESOLVED that:**

- 1. the content of the draft new Licensing Policy Statement for Buckinghamshire Council as required under the Licensing Act 2003 be agreed and;**
- 2. the commencement of a public consultation on the new Buckinghamshire Council Licensing Policy be agreed.**

## **5 Pavement Licensing - The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021**

The Committee received a report from the Licensing Manager (Chiltern and South Bucks) on pavement licensing. The Business and Planning Act 2020 obtained Royal Assent on 22 July 2020. The Act introduced a number of powers and requirements on local authorities that affected how they deal with a variety of issues, with the aim of supporting local businesses and helping economic recovery as the COVID-19 restrictions put in place by Government continue to be eased. The two most relevant sections of the Act cover:

- The change in approach to outdoor furniture provision for relevant businesses (as defined in the Act) to enable them to increase their trading space 'pavement licences'.
- Relaxation of off sales of alcohol for licensed premises

The new powers were temporary, and were originally in place until 30 September 2021, however there are new draft regulations (Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021) which would amend The Business and Planning Act 2020, extending these powers to 30 September 2022, which were approved by parliament on 20 July 2021.

In order to promote consistency in approach, it was recommended that subject to

the new regulations coming into effect, the Council continued to issue pavement licences for the maximum permitted length. This would mean that although premises with existing licences would have to re-apply, their newly issued licences would be valid until 30th September 2022. 38 licences issued to date would expire at the end of September 2021. Similarly, all new licences issued would also be valid until 30th September 2022. It was also recommended that the same fee of £100 for each pavement licence be retained in line with the maximum amount specified by Government. This would go part way towards the costs of the provision of this service and the associated regulatory activity. The cost to the service was £300 per licence.

During discussion the following questions were responded to:

- Clarity was sought on the definition of street furniture particularly pillars and temporary roofing. The Licensing Manager reported that there were conditions on each licence to make sure that there was accessibility and no obstruction to ensure health and safety requirements were met. The Transition Head of Licensing, Cemeteries & Crematoria Services also responded that the powers introduced were a temporary lift on planning permissions on temporary structures outside in order to assist business which would have previously required planning consent. However, if this guidance was made permanent (which was currently being looked at by the Government) then the Council would feedback to the Government the importance of criteria for long term structures. Inspections were carried out when any concerns were reported to the Licensing Team. It was predominantly reactive as it was part of a permissive regime to help businesses. Planning permission exemptions were attached to the licence when issued and would be extended with the licence.
- A Member commented that the Council was losing £200 on each licence and if the Government was thinking about making this permanent how this could be funded in the future. The Licensing Manager reported that they would definitely be raising this as part of the Government consultation.
- Reference was made to £7,600 which had been lost to the Council and the Transition Head of Licensing, Cemeteries & Crematoria Services responded that this came from the licensing budget and had to be offset against any other income. Only certain parts of licensing could be self-funding for example taxi licensing income could only be used for taxi licensing services.

On a vote being taken (proposed by Cllr Town and seconded by Cllr Southworth) with seven Councillors in favour it was **RESOLVED that**

- 1. the changes to the Business & Planning Act 2020 introduced by The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 be noted.**
- 2. the proposed duration of pavement licences, subject to The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 coming into effect be confirmed.**

**3. the level of fee charged in respect of applications for pavement licences issued under the Business & Planning Act 2020 be confirmed.**

**6 Taxi and Private Hire Licensing Fees and Charges**

The Committee received a report on taxi and private hire licensing fees and charges. The Chairman provided an update for the Committee as follows:

Following agreement with the Cabinet Member for Regulatory Services, Nick Naylor and herself as Chairman of the Committee, she provided an update on a minor amendment to the Taxi Licensing Policy which would come into effect from the 6<sup>th</sup> September 2021.

The agreed amendment enabled existing licensed vehicles that were not already subject to the age requirements set down within the Policy to continue to be licensed until the vehicle was 15 years old or until the 1<sup>st</sup> September 2024 (whichever was the sooner). This would include wheelchair accessible vehicles that were previously licensed by Wycombe District Council as hackney carriage vehicles.

This gave the majority of the licensed trade who were not already subject to a 10 year vehicle age limit additional time to prepare and plan to change their vehicles and was aimed specifically at maintaining the level of supply of wheelchair accessible vehicles available for passengers across the Council area. It should also mean that there was a greater choice of affordable electric wheelchair accessible vehicles available in the market at the time of replacement which supported the Council's environmental objectives. Consideration was also being given to extending the maximum age limit of larger more specialist wheelchair accessible vehicles and feedback would be provided to the Committee on this in due course.

This amendment had been made following feedback from the licensed trade on the possible impacts of this part of the Policy. Members and Officers were committed to working with the licensed trade to implement the new Policy from the 6<sup>th</sup> September 2021.

Turning to the report, the Licensing Team Leader (Wycombe area) reported that the new Buckinghamshire Council Taxi and Private Hire Licensing Policy was approved at the Council meeting on the 24th February 2021 and was due to be implemented on the 6th September 2021 when the existing legacy area zones would be removed and replaced with one single operating area. As a result, it was now necessary to align all fees and charges relating to taxi licensing to enable full implementation of the policy and provide consistency across the Council area for both applicants and licence holders. Taxi fees were required by law to be cost neutral and the relevant legislation and case law set out the elements of the licensing process which can be included in the calculation of fees.

At its meeting on the 14th April 2021, the Committee agreed to approve the then proposed fees for a full consultation process. Since that meeting the fees have been advertised in newspapers throughout the council area as required by the legislation.

All licence holders have also been contacted and provided with a link to information on the fees along with a feedback survey. The consultation ended on the 7th July 2021 and 84 responses were received. 81 of these were received via the website feedback form and 3 additional responses were received via email.

The majority of consultation responses (56.8%) were from licensed drivers who were not in agreement with any increase in fees. This negative response was unsurprising given that this was the only area where it was proposed that the fees would increase, as a result of the requirements of the new statutory standards. . The main reason given by drivers for not making any increase in fees (37%) was the impact that the pandemic has had on the trade over the last 15 months. There was a deficit of approximately £90,000 across the legacy areas, although the decision had been made not to include this in calculating the new fees as it was felt not to be fair to the trade.

The proposed fees compared favourably with surrounding authorities despite the likelihood that many of these would inevitably be increased in coming months with the implementation of the statutory standards.

Taxi licensing fees and charges would be kept under close review to ensure that they have been set at an appropriate level and any surplus or deficit would be included in future reviews to ensure that the trade were paying a reasonable fee for licences, as required by the legislation. Further reports would be provided to the Committee in this respect on an annual basis.

During discussion the following points were made:

- A Member welcomed the principle of harmonising the fees but asked about the flexibility of reviewing fees earlier to understand the impact on the taxi trade. The Licensing Team Leader reported that normally fees were reviewed on a three yearly basis but 12 months was being proposed as the Council was a new authority with a new structure. The Transition Head of Licensing, Cemeteries & Crematoria Services confirmed that 12 months was the earliest time to review fees as those licences were issued for three years and the income that came in would cover the cost of that three year period and needed to cover a number of areas including enforcement. A period of one year should be able to provide enough data on the volume of applications and the cost of the service. Taxi drivers could hold licences in more than one legacy area and these would be condensed into one licence and also the service currently licence out of area drivers which could change depending on Council policy changes e.g. Milton Keynes and Luton.
- Fees were paid at the point of application. A vehicle licence was one year and an operator licence five years.
- Reference was made to £90,000 deficit and the Transition Head of Licensing, Cemeteries & Crematoria Services reported that a previous Committee had agreed not to recover the deficit from the existing taxi licensing trade. The Transition Head of Licensing, Cemeteries & Crematoria Services would be

looking to review the figures as early as possible to understand if there was a deficit or a surplus with the fees and charges. Any profit or loss would be taken into consideration in calculating future fees.

- Wycombe fees were reviewed 2019/20 and it was decided to freeze the fees due to the new unitary. Aylesbury's fees were reviewed in 2018. Aylesbury was the only council running at a surplus of £100,000. Going forward with the new structure the Service area would have a full establishment structure based on demand.
- The Transition Head of Licensing, Cemeteries & Crematoria Services reported that there were restrictions on the service on how funding streams were used so if the income related to vehicles that could only be used for vehicles. When fees were calculated they looked at each area separately.
- The Transition Head of Licensing, Cemeteries & Crematoria Services was asked a question about feedback from the taxi trade and she commented that they had been liaising with the Licensed Private Hire Car Association since the last Licensing Committee. The Department of Transport had indicated that the increase in driver fees required to meet the statutory standards was expected to be in the region of £62.67 per year, so approximately £187 for the three year period. Members noted that the proposed fees were in that ballpark or lower. The Association understood that the fees had to be increased but were concerned about the introduction of statutory standards during the pandemic. The LPHCA represented approximately 40 operators in the council area when there were in the region of 300 operators overall.
- In relation to private hire operator licences, reference was made to one man bands who operate their own vehicle (generally from home) compared to operators who could have 40-50 vehicles and it was necessary to make sure that the fees were fair depending on the size of the business. There were different ways to charge operator licences.
- A Member expressed concern about the fees bearing in mind the impact of the recent pandemic and whether the fee could be set at the lowest legacy council fee. The Transition Head of Licensing, Cemeteries & Crematoria Services reported it was the decision of the Committee but if the fees were reduced then the costs of the Service could not be recovered and would not be cost neutral next year. In terms of providing licences the trade was very clear that they wanted to have their licences in a timely fashion and for the Council to provide a high quality service. The Service area was investing in improved technology so many processes could be automated and they would look to reduce costs going forward. They were hopeful they could pass further efficiencies back to the trade. Setting lower fees could be a mistake as it would not cover the costs of delivering the additional requirements of the statutory standards. Generally, vehicle and operator fees were decreasing and the only increase was driver licence fees because of the new standards which have been brought in by Government to protect the public.
- A Member commented that he would like to see a review of this as soon as possible and the impact on the taxi trade. The Transition Head of Licensing, Cemeteries & Crematoria Services reported that she could provide an update

to Members before September 2022 but that there may not be enough evidence to review the charges at that time.

- Reference was made to being business-like and setting a cost depending on the number and mix of licences and the structure of the service. A comment had been made that the cost of a licence should be lower for unitary councils because of efficiency savings but that was yet to be analysed.
- Clarification was sought regarding the difference in costs and Members were referred to the Appendix in the report. A Member commented that there was an increase of 62% for Wycombe driver fees.
- Another Member commented that he had looked at the officer report and was confident in the fees that had been set. He commented that times were tough for all residents not just taxi drivers.
- A discussion was held and there was concern about any deficit being offset by the council tax payer. The Transition Head of Licensing, Cemeteries & Crematoria Services reported that in the next 12 months she would be able to give information on the surplus and deficit. The cost per driver per year for a licence was £101.
- If information was available at an earlier point and changes needed to be made this would be brought to the Committee as soon as possible who could make a decision to change them. There was a process around this for example public consultation and a committee decision. If the fees needed to be varied, advertising would be carried out over a 28 day period. The process of amending fees could be carried out within a three month period.
- A number of responses referred to an apparent new requirement that all vehicle licence holders would be required to travel to Aylesbury for vehicle testing. Although feasibility studies were currently ongoing in relation to future vehicle testing requirements, there was currently no proposal for all licensed vehicles to be tested at the in-house garage at Pembroke Road in Aylesbury. Other areas could be tested through authorised testing centres and this would not be included in council fees and charges. Clarification on this would be sent to Members for information.

On a vote being taken (proposed by Councillor Wood, seconded by Cllr Town) with six votes in favour and one against it was **RESOLVED that the proposed fees and charges set out at Appendix 1 of the report were agreed to become effective as of the 6th September 2021.**

## **7 Date of next meeting**

The date of next meeting was 7 September and an additional meeting of 20 October was agreed both at 6.30pm.