

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held on Wednesday, 1st December 2010 at 6.00 pm in the Reception Suite, Civic Offices, Telford

PRESENT: R. Aveley (Chairman), R.T. Kiernan (Vice-Chairman), R.G. Chaplin, J.A. Francis, R.E. Groom, T.J. Hope, G.P. Hossell, A.A. Mackenzie, H. Rhodes, C.F. Smith and A.G.P. Williams.

LC-36 MINUTES

RESOLVED – that the minutes of the meeting of the Licensing Committee held on the 13th October 2010 be confirmed and signed by the Chairman.

LC-37 APOLOGIES FOR ABSENCE

Councillors Y.C. Hicks, C.N. Mason and C.P.R. Mollett.

LC-38 DECLARATIONS OF INTEREST

None.

LC-39 LICENCE FEES

The report of the Service Delivery Manager: Public Protection was received which requested Members to consider an increase in the levels of Licence Fees and charges affecting the Hackney Carriage and Private Hire Vehicle trades. The Committee was advised that the level of fees and other charges for Hackney Carriage/Dual and Private Hire were last increased by the Licensing Authority on 1st June 2005.

Members were advised that it was legitimate for a local authority to recover as much of their costs as they were able to when administering Hackney Carriage and Private Hire licences. A Council, when setting fees, should have regard to the impact that any increase may have upon the livelihood of licence holders. The Committee was advised that the setting of fees and charges must be calculated and reasonable and limited to an amount that recovered the costs of carrying out the functions of the Local Authority under the relevant legislation. This would also include the costs of the issue of the licence and associated administrative tasks.

The Committee was further advised that the level of fees and charges was last reviewed by Telford & Wrekin Council in 2005 and that the costs to the Council of administering all licences had increased considerably. During the financial year 2009/2010, the projected cost of the Licensing Service undertaking its statutory duties to be subsidised by the Council Tax payer amounted to £137,000 (£157,000 in 2008/2009)

The increase in costs on 2005 had been caused by inflation and subsequent increases in direct costs from third parties services whilst Licence fees had not increased since 2005, large increases in the numbers of applications received and licences granted and changes to primary and secondary legislation. The Licensing Service had streamlined its operating costs, however, the increase in numbers of

applications and changes to legislation had resulted in an increased administrative requirement on the Licensing Service.

Members were referred to the report and Appendix A which detailed four options for the level of fees and charges for the Committee's consideration and the anticipated level of costs that would be recovered for each option. In relation to the proposed fee level which would include a contribution towards the provision of the current taxi marshalling scheme a view was expressed that the possible introduction of this fee level could be considered to be unfair whereby the cost would be wholly covered by the trade and also in situations where drivers did not work during the night. Members agreed that this particular option would not be considered. The Committee was advised that funding for the current scheme would expire in March 2011 and that in the absence of future funding the current scheme would be ended.

It was reported that the Licensing Service had carried out a bench marking exercise with the Council's family group, in relation to licence fees for Hackney Carriage and Private Hire Licences. The results of the bench marking were displayed at the meeting. Members were further referred to the fees calculation and other budgetary information contained within Appendix B of the report. It was confirmed to the Committee that the figures provided included the total costs incurred for the whole of the licensing service and were not limited to Taxi & Private Hire Vehicle licensing. The Licensing Service had also provided all information requested by the trade associations in relation to fee calculations, benchmarking information and the numbers of licences issued.

The Committee was referred to the previous meeting that was held on 29th March 2010 where Members had previously resolved to consult formally on the proposed increase in Licence Fees. The meeting was advised that following this meeting pre-consultation meetings with the trade associations had been undertaken ahead of a formal consultation process with the feedback from these meetings being attached at Appendix C of the report.

Members were also informed that whilst not contained in the within the original report of March 2010, it was suggested that it could be proposed to offer Hackney Carriage/Private Hire and Dual drivers an option to apply for a three year licence rather than a twelve month licence upon renewal. It was considered that this option would encourage compliance as the option to renew a licence for three years would only be available to drivers who had been compliant with legislation and the Council's conditions of licence for the duration of their expiring licence period. Further this option would also produce business efficiency through reduced administrative costs, if offered to drivers under these circumstances. The proposed costs would be £500 for a Hackney Carriage/Private Hire Driver licence or £750 for a Dual Driver licence compared to £200 and £300 respectively for a 12 month licence.

A number of Members referred to Appendix B of the report and in particular to a number of the budget headings in particular Conference Expenses and Consultant fees, which indicated a lower outturn that had been budgeted and also the heading in connection with photographs which were shown at zero. By way of response the Committee was advised that the budget information that had been provided was in relation to the whole of the Licensing Service and its complete service and was not limited to the Taxi & Private Hire Vehicle element. In connection with photographs as

was the position with other elements of the budget the zero figure indicated that there was no budget available for these particular headings.

In answer to a question in connection with future plans for further fees reviews the Committee was advised that these would be undertaken on an annual basis in future. Further questions were raised in connection with the benchmarking and comparative fees. Members were advised that the benchmarking exercise had been undertaken within the Council's family group of authorities and the background to the family group was provided. A Member also questioned as to how the Council had compared against the family group on the basis of the existing level and the Council's likely position if any fee increase was approved. By way of response the Committee was informed that at present the Council ranked towards the bottom end of the family group but would be in the top third if any increase was agreed. It was however pointed out that fee levels were always being reviewed at some stage and it was likely that the Council's position would be changed.

There was a discussion in connection with the current taxi marshalling scheme. It was recognised by a member that the scheme was introduced in order to ensure the safety of the public and it was questioned as to whether the removal of the scheme would prejudice the safety of the public it was also questioned as to whether there was any available evidence of outcomes both prior to the introduction of the scheme and those obtained during its operation. The Members were informed that prior to the scheme's introduction there had been reported crime and disorder problems which had subsequently been reduced since the scheme's introduction.

The Chairman proposed and it was duly seconded that the Committee should approve the level of fees in accordance with Column 3 of Appendix A (Increase based on actual cost recovery) via a staged increase over a period of time to be determined by the Members of the Licensing Committee, the first increase to come into force on a specified date not less than 28 days from the date on which a notice is to be published subject to any relevant representations being received during this period with any responses being submitted to the Licensing Committee.

Prior to the proposal being submitted for consideration an amendment was proposed by Councillor Mackenzie and duly seconded that sought approval to an increase in the fees in accordance with Column 2 of Appendix A (Increase based on an inflationary increase in line with the previous five years) via a staged increase over a period of two years, the first increase to come into force on a specified date not less than 28 days from the date on which a notice is to be published.

On being put to the vote the amendment was declared lost on the second and casting vote of the Chairman following an initial equality of votes. Following this the main substantive motion was formally submitted to the vote with a majority of members voting for the proposal and as a result it was accordingly;

RESOLVED – that the level of fees in accordance with Column 3 of Appendix A (Increase based on actual cost recovery) via a staged increase over a period of time to be determined by the Members of the Licensing Committee, with the first increase to come into force on a specified date not less than 28 days from the date on which a notice is to be published subject to any relevant representations being received during this period with any responses being submitted to the Licensing Committee be approved.

LC-40

POLICY FOR DETERMINING THE GRANT, RENEWAL, SUSPENSION OR REVOCATION OF A PRIVATE HIRE OPERATOR LICENCE, PRIVATE HIRE DUAL OR HACKNEY CARRIAGE DRIVER LICENCE WITH RELEVANCE TO CONVICTIONS

The Committee received the report of the Service Delivery Manager: Public Protection which requested that Members consider a review of the Council's Policy for determining Hackney Carriage and Private Hire Licences with relevance to convictions.

Members were reminded that subject to the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council shall, on receipt of an application for a Hackney Carriage/Private Hire/Driver and/or Operator Licence, grant the licence provided that a district council was satisfied that the applicant was a fit and proper person to hold the licence. The Council may also suspend or revoke a driver and/or operator licence if the Council was not satisfied that the driver/operator remained a fit and proper person once the licence had been granted.

It was reported that the policy was last reviewed in January 2009. It was based on the guidelines relating to the relevance of convictions, contained in the publications – Disclosure of Criminal Records: Applicants for Hackney Carriage and Private Hire Vehicle Driver's Licences and Taxi and Private Hire Vehicle Licensing – Department for Transport Best Practice Guidance. Members were further advised that the proposed policy had been updated in line with best practice. The proposed revised policy (the revisions were highlighted) and attached at Appendix A, together with the existing policy.

The Policy had been further reviewed following representation made on behalf of the Telford Private Hire Operator's Association and the representation made by A2Zlicensing was attached at Appendix B. The Committee was referred to a further letter from A2Zlicensing dated 24th November, which was tabled and read out in full during the meeting, which referred to the current requirements in relation to CRB disclosures. The Solicitor to the Committee advised Members that the Committee were only being requested to consider a review of the policy that is used when consideration was given to the relevance of criminal convictions and not seeking a policy in relation to CRB checks.

In connection with CRBs and in relation to applicants for Operator licences it was an existing condition of the licence that a CRB Disclosure was obtained. The Committee would receive a further report, which would also include a proposal that this requirement was reviewed. The draft policy also made no reference to Hackney Carriage or Private Hire Vehicle proprietors. In respect of applicants for Proprietor licences, whilst again it was an existing condition of a licence that CRB Disclosures were obtained the Council acknowledged that this may no longer be appropriate. Again the Committee were advised that a further report would be submitted in order to consider the removal of this condition. It was further mentioned that both of these existing conditions were included within the overall conditions review that was undertaken in 2008 and that no responses were received as part of that consultation in respect of these conditions.

RESOLVED – that revised Taxi and PHV Licensing Criminal Convictions Policy – dated December 2010 as attached at Appendix A be implemented with immediate effect.

LC-41 POLICING AND CRIME ACT 2009

The report of the Service Delivery Manager: Public Protection was received by the Committee seeking consideration of a revised Sex Establishment Policy following adoption by the Council on 7th October 2010 of the amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. The report also sought Member approval for the proposed conditions of licence and fees in respect of the process.

Members were referred to Appendix B which comprised a draft of the proposed policy, including standard conditions, to be implemented by Telford & Wrekin Council to regulate sex establishments including sexual entertainment venues in the Borough.

Members were further reminded of the previous report which advised that Schedule 3 of the Policing and Crime Act 2009 (the 2009 Act) introduced a new category of sex establishment called a Sex Entertainment Venue into Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 (the 1982 Act). This brought the licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the 1982 Act, which was currently used to regulate establishments such as sex shops and sex cinemas.

The Committee were advised that on 7th October 2010 Full Council adopted the amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The new provision introduced a transitional period which would last for 12 months starting from the date that the amended provisions come into force within the Borough (1st January 2011 – the first appointed day), with the second appointed day being the 1st July 2011.

The report provided detailed information in relation to the required licensing regime in connection with sexual entertainment venues and the appropriate transitional arrangements. Members were referred to the draft policy at Appendix B of the report which also provided a list of proposed standard conditions that were detailed at Appendix A of the draft policy.

At the previous meeting of the Committee that was held on 29th March 2010, Members of the Licensing Committee reviewed the fee for a Sex Establishment Licence. In setting the fees for the issue and renewal of a Sex Establishment Licence, Members limited the fee to an amount that recovered the costs of carrying out the functions of the Local Authority in administering the process of Sex Establishment Licences, including inspection and enforcement and which also included direct and indirect costs. Members were advised that the processing of Sex Entertainment Venues were identical to that of the issuing and renewal of a Sex Establishment Licence and consequently it was recommended that the fees be the same as those set by Members during the review in March, i.e. new application for a licence £3000, application to renew a licence £1500. It was also proposed to introduce a fee of £590 for the transfer of a Sex Establishment Licence.

RESOLVED – that

- (a) the draft policy for the regulation of sex establishments as detailed within the report be approved subject to a period of public consultation and that if there are no changes that the draft policy can be published or if only minor amendments are required, the policy shall be amended by the Principal Licensing Officer following consultation with the Chairman of the Licensing Committee and subsequently published,
- (b) the level of fees payable for a Sex Entertainment Venue to be identical to those fees currently applicable to a Sex Establishment and that the introduction for a transfer fee should be approved and set at £590;
- (c) that the proposed standard conditions to be attached to Sex Establishment licences as detailed in the Sex Establishment Policy – January 2011 be approved.

The meeting ended at 7.15 pm.

Chairman:

Date: