

Minutes

Licensing Committee

Venue:	Committee Room.
Date:	Monday 7 September 2015
Time:	10.00am
Present:	Councillors C. Pearson (Chair), K Ellis (Vice-chair), D Buckle (Sub. for M Hobson), Mrs J Chilvers, Mrs S Duckett, M Jordan, B Marshall, R Sweeting, J Thurlow and Mrs D White.
Officers Present:	Gillian Marshall, Solicitor to the Council; Tim Grogan, Senior Enforcement Officer; Daniel Maguire, Democratic Services Officer; Lee Taylor, Policy Intern and Tiffanni Edwards, Legal Intern.
Apologies for absence:	Councillor M Hobson.
Press:	0
Public:	0

16. MINUTES

The Committee considered the minutes of the Licensing Committee held on 6 July 2015. It was noted that the Committee had raised concerns about the use of Meeting Room 2 due to the Committee Room having been booked.

RESOLVED:

To approve the minutes of the Licensing Committee meeting held on 6 July 2015.

17. DISCLOSURES OF INTEREST

Councillor Marshall declared a personal interest in agenda item 13 as he had a personal connection to the Hackney Carriage driver and advised that he would leave the meeting during the consideration of this item.

Councillor Duckett declared a personal interest in agenda item 13 as she had been a witness in a previous case relating to the Hackney Carriage driver referred and advised that she would leave the meeting during the consideration of this item.

18. PROCEDURE

The Committee noted the Licensing Committee procedure.

19. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Chair thanked members for their attendance at the update session on changes arising from the Deregulation Act 2015 that had preceded the meeting.

The Chair agreed to amend the agenda so that agenda items 10 to 15 inclusive would be considered first in order to minimise the waiting time for witnesses.

20. APPLICATION FOR A DISCREET PRIVATE HIRE VEHICLE LICENCE (REPORT L/15/9)

The Committee were advised that the Democratic Services Officer had spoken with the applicant on 4 September and that the applicant had offered his apologies to the Committee for not being able to attend due to a pre-arranged foreign holiday. He asked that the application be heard in his absence. An email from the applicant was circulated which included photographs of the vehicle to which the application applied.

The Committee agreed to hear the application in the absence of the applicant.

The Senior Enforcement Officer presented the report (L/15/9) and explained that the application was for a Private Hire Vehicle Licence in the form of a discreet identification badge. The Committee were informed that the application followed the granting of two previous discreet licences to the same applicant. It was explained that this further licence was requested due to the increasing demand for executive-style transport. The Committee were advised that the Council were permitted to issue such a licence, and that the Council had done so on fifteen previous occasions since 16 August 2004.

The Committee were given the opportunity to question the Senior Enforcement Officer in connection with the application.

The Senior Enforcement Officer left the room while the Committee discussed the matter and made their decision

RESOLVED:

To grant the application for a discreet Private Hire Vehicle Licence to Mr Ross Potter as outlined in report L/15/9.

21. PRIVATE SESSION

RESOLVED:

That, in accordance with Section 100(A) (4) of the Local Government Act 1972, in view of the nature of the business to be transacted the meeting be not open to the Press and public during discussion of the following item as there will be disclosure of exempt information as described in paragraphs 1, 2 and 7 of Part 1 of Schedule 12(A) of the Act.

22. ISSUE CONCERNING THE BEHAVIOUR OF A HACKNEY CARRIAGE VEHICLE DRIVER (REPORT L/15/10)

The Hackney Carriage driver was in attendance confirmed that he understood the procedure.

The Senior Enforcement Officer presented the report L/15/10, which detailed a complaint received against the driver concerned. The complaint related to an incident on 24 June 2015 which resulted in a confrontation between the complainant and the Hackney Carriage driver.

The driver informed the Committee of an error in the report, which was noted and the Committee disregarded the incorrect information. A statement from the driver and accompanying photographs relating to the complaint were circulated.

The Committee were given the opportunity to question the Senior Enforcement Officer and the driver in connection with the incident.

The Senior Enforcement Officer and the driver left the room while the Committee discussed the matter and made their decision

RESOLVED:

To issue the Hackney Carriage driver with a verbal warning which would remain on the driver's file for a period of six months and ask that he send a letter of apology to the complainant.

The Committee stated that having considered all the evidence before it, the Committee considered that the actions of the driver raised concerns about his ability to be a 'fit and proper person' to hold a Hackney Carriage drivers licence. The Committee agreed that:

- **a confrontation did take place between the complainant and the driver concerned, and that the complainant was upset as a result of this**
- **the Committee expect Hackney Carriage drivers to conduct themselves in a professional manner when dealing with members of the public**

The driver was invited back into the meeting and the Solicitor to the Council advised him of the Committee's decision.

As a result of the discussion, the Committee considered that the problems identified relating to parking and loading on James Street, Selby should be raised at the Selby Area Committee of North Yorkshire County Council.

RESOLVED:

To ask Councillors to raise the issues relating to parking and loading on James Street, Selby at the meeting of the Selby Area Committee on 14 September 2015.

23. ISSUE CONCERNING THE BEHAVIOUR OF A HACKNEY CARRIAGE VEHICLE DRIVER (REPORT L/15/11)

Following their earlier declaration, Councillors Marshall and Mrs Duckett left the meeting for the consideration of this item and did not take part in the discussion or vote.

The Hackney Carriage driver was in attendance confirmed that he understood the procedure.

The Senior Enforcement Officer presented report L/15/11, which detailed a complaint received against the driver concerned. The complaint related to an incident on 1 July 2015.

The Committee were given the opportunity to question the Senior Enforcement Officer and the driver in connection with the incident.

The Senior Enforcement Officer and the driver left the room while the Committee discussed the matter and made their decision

RESOLVED:

To issue the Hackney Carriage driver with a written warning which would remain on his file for a period of six months.

The Committee stated that having considered all the evidence before it, the Committee considered that there had been a refusal of a fare and that the actions of the driver raised concerns about his ability to be a 'fit and proper person' to hold a Hackney Carriage drivers licence.

The Hackney Carriage driver was invited back into the meeting and the Solicitor to the Council advised him of the Committee's decision.

24. ISSUE CONCERNING THE BEHAVIOUR OF A PRIVATE HIRE DRIVER (REPORT L/15/12)

The Private Hire driver was in attendance with his employer and confirmed that he understood the procedure.

The Senior Enforcement Officer presented report L/15/12, which detailed a complaint received against the driver concerned. The complaint related to an incident on 15 July 2015.

Letters of support for the driver were circulated to the Committee. The Committee were given the opportunity to question the Senior Enforcement Officer and the driver in connection with the incident. The driver's employer made representations on his behalf.

The driver, his employer and the Senior Enforcement Officer left the room while the Committee discussed the matter and made their decision

RESOLVED:

To issue the Private Hire driver with a verbal warning which would remain on the drivers file for a period of six months.

The Committee stated that having considered all the evidence before it, it considered the actions of the driver raised concerns about his ability to be a 'fit and proper person' to hold a Private Hire drivers licence. The Committee acknowledged the good references and representations made on behalf of the driver and believed that a verbal warning would help the driver to remain a 'fit and proper person' to hold a Private Hire drivers licence.

The Private Hire driver was invited back into the meeting and the Solicitor to the Council advised him of the Committee's decision.

25. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE (REPORT L/15/13)

The applicant was in attendance and confirmed that he understood the procedure.

The Senior Enforcement Officer presented report L/15/13, which related to an application for a Hackney Carriage Driver's Licence. It was explained that a Disclosure and Barring Service (DBS) check had raised concerns about the

ability of the applicant to be a 'fit and proper person', this being a requirement to be granted a Hackney Carriage Driver's Licence.

The Committee were given the opportunity to question the applicant and Senior Enforcement Officer in connection with the application.

The Senior Enforcement Officer and the applicant left the room while the Committee discussed the matter and made their decision

RESOLVED:

To REFUSE the application as the DBS check raised concerns about the applicant's ability to fulfil the requirement of being a 'fit and proper person' to hold a Hackney Carriage Driver's Licence, in accordance with the Council's Licensing Policy guidelines and specifically the requirement for a period of between three and five years to have elapsed from the date of a conviction.

The applicant was invited back into the meeting and the Solicitor to the Council advised him of the Committee's decision. It was confirmed that a letter would be sent advising of the rights of appeal.

26. DURATION OF MEETING

During the discussion of agenda item 15, in accordance with rule 9 of the Council procedure Rules, the Chair proposed that the meeting be permitted to continue beyond three hours.

RESOLVED:

To continue beyond three hours to ensure all business is concluded, subject to a short break.

The Meeting adjourned for a fifteen minute break between 12.55pm and 1.10pm. Councillor Buckle presented his apologies to the Chair and did not return to the meeting after the break.

27. PUBLIC SESSION

RESOLVED:

To return to public session.

28. DELEGATION OF AUTHORITY TO SUSPEND PREMISES LICENCES AND CLUB PREMISES CERTIFICATES FOLLOWING NON-PAYMENT OF ANNUAL FEES (REPORT L/15/5)

The Solicitor to the Council presented report L/15/5 which asked the Committee to give delegated authority to the Solicitor to the Council and the Lead Officer (Debt Control and Enforcement) to suspend premises licences and club premises certificates following the non-payment of annual fees and to amend the constitution to reflect this authority.

It was noted that the ability to suspend relevant licences and certificates in cases of non-payment would greatly assist the Council in managing debt control, and that delegating authority would allow such matters to be dealt with expediently in the best interest of the Council. It was reported that some establishments were in arrears by as much as three years.

RESOLVED:

To give delegated authority to the Solicitor to the Council and the Lead Officer (Debt Control and Enforcement) to suspend premises licences and club premises certificates following non-payment of annual fees and to amend the Constitution to reflect this authority.

29. REVIEW OF LICENSING POLICY (REPORT L/15/6)

The Senior Enforcement Officer presented report L/15/6 which updated the Committee on the periodic review of the Council's Licensing Policy. A draft version of the policy was circulated and the Committee were asked to provide comments and observations to the Solicitor to the Council. It was explained that the policy would go through a formal consultation between 14 September and 26 October, with a final version being put to Council on 1 December.

It was noted that, after adoption of the policy by Council, the Licensing Committee will be bound by the policy and subsequent decisions would need to be referenced to the policy. Consequently, the Committee were encouraged to make submissions to the consultation.

The Solicitor to the Council advised that North Yorkshire Police had indicated that it would be available to address the Committee in relation to the Licensing Policy.

RESOLVED:

- i) To receive the report, note its contents and assess the draft Licensing Policy prior to it being presented to Council on 1 December 2015.**
- ii) To invite a representative of North Yorkshire Police to attend the October meeting of the Licensing Committee to discuss the Licensing Policy.**

30. EFFECT OF DEREGULATION ACT 2015 ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING (REPORT L/15/7)

The Senior Enforcement Officer presented report L/15/7 which updated the Committee on changes to Hackney Carriage and Private Hire licensing as a result of the Deregulation Act 2015 which comes into effect on 1 October 2015. The Committee were notified of two specific changes that would affect Hackney Carriage and Private Hire licensing:

- Section 10 of the Act stated that the standard duration of all Hackney Carriage and Private Hire driver licences would be three years, and the duration of Private Hire operator licences would be five years. It was explained that shorter durations could be granted, but only on a case-by-case basis, and only where a shorter duration could be justified. It was explained that currently the standard duration was for one year, although under the new provisions Driver and Vehicle Licensing Agency (DVLA) licence checks would still be made annually and Disclosure and Barring Service (DBS) checks would continue to be three-yearly.
- Section 11 of the Act stated that Private Hire operators would be able to sub-contract bookings to operators licensed in a different authority area. It was explained that in response to this, the Council would seek to maintain and enhance relationships with neighbouring Licensing Authorities.

RESOLVED:

To receive and note the report.

31. ENFORCEMENT EVENING (REPORT L/15/8)

The Senior Enforcement Officer presented report L/15/8 which updated the Committee on an Enforcement Evening held in Selby on 14 August 2015 between 7pm and 10.30pm. The Committee were informed that the evening was a multi-agency operation involving enforcement officers from Selby District Council, North Yorkshire Police and the Driver and Vehicle Standards Agency (DVSA). It was explained that during the evening fourteen drivers and vehicles were examined with the following results

- Ten were found to have no faults.
- three were found to have minor faults; and
- one received a prohibition notice (this was rectified at the scene and the notice was removed). It was reported that this demonstrated very high standards amongst licensed vehicles and drivers in Selby district.

The Senior Enforcement Officer advised that similar operations will be conducted in the future, but that the involvement of the Police was essential

as only the Police had the power to compel a driver to stop his/her vehicle. Additionally, the Committee were informed that the DVSA would only attend if there was a Police presence.

RESOLVED:

To receive and note the report.

The meeting closed at 1.35pm.