

## LICENSING COMMITTEE

### Minutes of the meeting of the Licensing Committee held on 26 October 2011 commencing at 6.00 pm

Present: Cllr. Pett (Chairman)

Cllrs. Abraham, Mrs. Ayres, Ayres, Cooke, Davison, Fittock, Hogarth,  
Mrs. Parkin, Raikes and Walshe

Apologies for absence: Clark, Mrs. Dawson, Firth and Piper

8. MINUTES OF THE MEETINGS OF THE COMMITTEE HELD ON 22 JUNE 2011 AND OF THE SUB-COMMITTEES HELD ON 6 JULY 2011 AND 12 JULY 2011.

Resolved: That, the minutes of the meeting of the Licensing Committee held on 22 March 2011 and the Sub-Committees held on 10 June 2011 be approved and signed by the Chairman as correct records.

9. DECLARATIONS OF INTEREST

All Councillors present declared a personal interest in Minute Item 11 by virtue of knowing Cllr. John Underwood, who was a taxi driver in the District.

Cllr. Ayres declared a personal interest in Minute Item 11 by virtue of knowing Mr. Shanker Gaire, who was a taxi driver in the District.

Cllr. Pett declared a personal interest in Minute Item 11 by virtue of knowing Colin Annetts, who was a taxi driver in the District.

10. DRAFT TAXI LICENSING POLICY

The Assistant Licensing Partnership Manager presented the report which gave detailed feedback from the consultation period for the Draft Statement of Hackney Carriage and Private Hire Policy which ran for six weeks from the 26 August 2011 until the 7 October 2011. The proposed policy amended the current policy that Sevenoaks District Council had in operation which was last issued in January 2008. Members noted that there is no statutory requirement for a Licensing Authority to produce a Hackney Carriage and Private Hire Licensing Policy but that the Department for Transport "Best Practice" recommends that one is in place.

The Chairman advised that he had met with Mr. Rizvi the lead petitioner of a petition received against the proposed penalty points system, who was also present at the meeting. He asked whether he had had an opportunity to relay the conversation to his colleagues. Mr. Rizvi reported that he had but that it was still felt that the penalty points system was unnecessary.

Members considered the feedback attached at Appendix B in great detail.

Members considered the suggestion that the minimum number of passengers be reduced to 1 (i.e. the Smart car etc). It was agreed that Officers should explore this further, but that it should be left as it was for the time being.

*Action 1: Officers investigate and report back to a future meeting.*

Members discussed applicants for licences involving vehicles that had been converted to run on Liquid Petroleum Gas (LPG) and agreed suitable wording that where a spare wheel is not possible it should read 'Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.'

When considering concerns expressed with regard to the new internal plates and wearing of badges the Assistant Licensing Partnership Manager advised that these had been redesigned, and plastic receptacles would be provided for the internal plate.

Members agreed that it may not be practicable for drivers to search their vehicle after every journey but felt that a daily search should be a minimum requirement and/or should make reference to a search after each shift.

It was agreed that there should be an insertion of a requirement under 'Breach of Policy Requirement' "Failure to display the internal driver's badge" 4 – 6 (points) and "Failure to display the internal vehicle plate" 4 – 6 (points).

Members' acknowledged the concerns expressed by taxi drivers with regard to the proposal of the penalty points.

Resolved: That:

- (i) All the representations and comments received following the consultation be noted,
- (ii) the Officer comments and recommendations set out at Appendix B, be approved and included in the final policy, subject to the comments/amendments made at the meeting; and,
- (iii) the final policy be REFERRED to Full Council for adoption.

#### 11. CONSIDERATION OF EXEMPT INFORMATION

Resolved: That, under section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the ground that likely disclosure of exempt information is involved as defined by the relevant paragraph as respectively identified of Schedule 12A to the Local Government Act 1972.

At 6.58 p.m. the Chairman adjourned the Committee for the convenience of Members and Officers. The meeting resumed at 7.05 p.m.

12. REVIEW OF PRIVATE HIRE OPERATOR LICENCE (Schedule 12 A, paragraph 1. Information relating to any individual.)

Members' reviewed a Private Hire Operator's licence which was issued on 29 June 2009, on grounds under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976, as detailed within the report. In the absence of the attendance of the Private Hire Operator, the Licensing Officer summarised the evidence provided within the report and advised the Committee that on 25 October 2011 a letter had been hand delivered to the Council responding to a number of points previously raised and surrendering three vehicle plates. Only one of the vehicle plates surrendered had been involved in the incidents detailed within the report. One plate was still outstanding. Great effort had been made to get in touch with the Private Hire Operator to see if she wished to surrender her Operator's Licence but no contact had been made prior to this meeting.

Members expressed concern that any decision reached by the Committee would not be received by the Private Hire Operator. It was agreed that the decision should be sent by recorded delivery to both her business and home address, and failing that the Assistant Licensing Partnership Manager undertook to hand deliver the decision notice.

Having considered the papers provided to them the Committee,

Resolved: That the Private Hire Operator Licence be revoked due to the persistent failure to produce records, the employment of drivers who did not have current private hire drivers licenses, failure to respond to reasonable requests from Council Officers and on grounds of public safety.

13. REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE (Schedule 12 A, paragraph 1. Information relating to any individual.)

The Licensing Officer summarised the evidence provided within the report and explained that the purpose of the hearing was to seek a review of a Hackney Carriage drivers licence giving consideration to section 61 of the Local Government (Miscellaneous Provisions) Act 1976 which included dealing with offences such as dishonesty, indecency or violence or any other reasonable cause, as detailed within the report. The Licensing Officer advised that when applying to be licensed as a Hackney carriage driver, applicants needed to demonstrate that they were a fit and proper person.

With regard to further information the respondent had supplied to the Council on 25 October 2011, it was noted that all present had received a copy and had read it before the meeting. However the Chairman pointed out that it was not relevant to the hearing.

The Committee heard from all present and were given the opportunity to ask questions on the statements made.

At 7.47p.m. the Hackney Carriage Driver, Police representative and all Officers present except for the Legal Services Manager and Democratic Services Officer withdrew from the Conference Room.

At 8.20 p.m. All returned to the Conference Room, to hear the decision.

Having considered the papers provided to them and heard from all peoples present, the Committee noted that despite the submissions the Hackney Carriage Driver had accepted a Police caution in relation to the offence and as such had admitted that offence.

The Committee considered that Hackney Carriage Driver was in a position of trust and that public safety was paramount. Working as a driver of a hackney carriage, he would come into contact with many people. In determining the matter, it was necessary for the Committee to consider whether he continued to be a fit and proper person to hold a hackney carriage licence.

Resolved: That:

- (i) the nature of the event appeared so serious that a period of suspension of 6 months would allow him to reflect and become a fit and proper person again;
- (ii) has the right of appeal to the Magistrate's Court (Sevenoaks) within a period of 21 days from the date of this decision, after which the suspension of his Hackney Carriage Licence would take effect. During that 6 month period he may not work as a taxi driver, and should reflect upon his conduct, to become a fit and proper person; and,
- (iii) it be recommended that it may be helpful to seek advice on anger management during the 6 month suspension period.

14. REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE (Schedule 12 A, paragraph 1. Information relating to any individual.)

The Licensing Officer summarised the evidence provided within the report and explained that the purpose of the hearing was to seek a review of the Hackney Carriage drivers licence giving consideration to section 61 of the Local Government Miscellaneous Provisions) Act 1976 which included dealing with offences such as dishonesty, indecency or violence or any other reasonable cause, as detailed within the report. The Licensing Officer advised that when applying to be licensed as a Hackney carriage driver, applicants needed to demonstrate that they were a fit and proper person.

The Committee heard from the Hackney Carriage Driver, and Police representative, and all present were given the opportunity to ask questions on the statements made.

At 8.44p.m. the Hackney Carriage Driver, Police representative and all Officers present except for the Legal Services Manager and Democratic Services Officer withdrew from the Conference Room.

At 9.20 p.m. All were asked to return to the Conference Room, to hear the decision.

Having considered the papers provided to them and heard from all peoples present, the Committee noted that despite the submissions he had accepted a Police caution and as such had admitted that offence.

The Committee considered that the Hackney Carriage Driver was in a position of trust and that public safety was paramount. Working as a driver of a Hackney carriage, he would come into contact with many people. In determining the matter, it was necessary for the Committee to consider whether he continued to be a fit and proper person to hold a hackney carriage licence.

The Committee noted the previous suspensions and were deeply concerned that he continued to fall beneath the standards expected.

Resolved: That:

- (i) the nature of the event appeared so serious that a period of suspension of 9 months would allow him to reflect and become a fit and proper person again;
- (ii) he has the right of appeal to the Magistrate's Court (Sevenoaks) within a period of 21 days from the date of this decision, after which the suspension of his Hackney Carriage Licence would take effect. During that 9 month period he may not work as a taxi driver, and should reflect upon his conduct, to become a fit and proper person;
- (iii) it be recommended that it may be helpful to seek advice on anger management during the 9 month suspension period; and,
- (iv) this third suspension was viewed very seriously and that it was extremely likely that any repetition would have the most serious consequences.

THE MEETING WAS CONCLUDED AT 9.25 pm

Chairman