

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Licensing and Regulatory Committee held in the Council Chamber at the Guildhall, Gainsborough on Tuesday 15 December 2015 commencing at 6.30 pm.

Present: Councillor Jessie Milne (Chairman - In the Chair)
Councillor Mrs Sheila Bibb (Vice-Chairman)

Councillor David Cotton
Councillor Mrs Angela Lawrence
Councillor Mrs Pat Mewis
Councillor Mrs Judy Rainsforth
Councillor Thomas Smith

In Attendance:

Phil Hinch Licensing Team Manager
Katie Coughlan Governance and Civic Officer

Also Present: Councillor Mick Devine

Apologies : Councillor Steve England
Councillor Mrs Di Rodgers
Councillor Lewis Strange

Membership : No substitutes were appointed for the meeting

23 PUBLIC PARTICIPATION PERIOD

There was no public participation.

24 MINUTES FOR APPROVAL

(a) Licensing and Regulatory Committee – 22 September 2015 (LR.17
15/16)

RESOLVED that the minutes of the Meeting of the Licensing and Regulatory Committee held on 22 September 2015 be confirmed and signed as a correct record.

25 MINUTES FOR NOTING

- (a) Licensing Sub-Committee – 20 October 2015 (LR.18 15/16)

RESOLVED that the minutes of the Meeting of the Licensing Sub-Committee held on 20 October 2015 be received and noted.

- (b) Licensing Sub-Committee – 18 November 2015 (LR.19 15/16)

RESOLVED that the minutes of the Meeting of the Licensing Sub-Committee held on 18 November 2015 be received and noted.

- (c) Taxi and General Licensing Sub-Committee – 18 November 2015 (LR.20 15/16)

RESOLVED that the minutes of the Meeting of the Taxi and General Licensing Sub-Committee held on 18 November 2015 be received and noted.

In respect of the minutes referred to at 25 (a) above, at the request of the Chairman, the Licensing Team Manager provided the Committee with a further update. These minutes related to a hearing regarding a Review of a Premises Licence at 2 Trafford Street, Gainsborough, brought about by Lincolnshire Police, at which the Sub-Committee had resolved to revoke the licence. Since then, the premise licence holder had launched an appeal with the Magistrates Court. The initial hearing had been planned for 9 December 2015, but the applicant's solicitor had failed to attend the Hearing. The initial hearing had therefore been re-scheduled for 6 January 2016.

The Committee questioned the status of the applicant's licence, while an appeal was pending, and Officers confirmed that the licence would remain active until the appeal was dealt with, as stated by law.

26 MEMBERS' DECLARATIONS OF INTEREST.

No declarations of interest were made at this point in the meeting

27 MATTERS ARISING SCHEDULE (LR.21 15/16)

Members gave consideration to the Matters Arising Schedule which set out the current position of all previously agreed actions as at 7 December 2015.

Committee's attention was drawn to the black action entitled "legal highs" and the information which had been provided by Officers in response to Members' requests.

RESOLVED that progress on the Matters Arising Schedule as set out in report LR.21 15/16, be received and noted.

28 REVIEW OF THE GUIDELINES RELATING TO RELEVANCE OF CONVICTIONS POLICY FOR TAXI AND PRIVATE HIRE DRIVERS AND OPERATORS (LR.22 15/16)

Consideration was given to a report which informed Members of draft proposals to amend the Guidelines relating to relevance of Convictions Policy for Taxi and Private Hire Drivers and Operators.

In presenting the report Officers advised that there was currently in place a “Guidance for Members General Policy” which contained within it, inter-alia a section referred to as *Guidelines relating to relevance of Convictions*. The specific document relating to convictions had last been reviewed in 2008 and provided advice for Members, officers and applicants in relation to taxi and private hire drivers with any convictions an applicant may have.

It was noted that the Members General Policy had been updated on several occasions since 2013, some amendments as a direct result of issues that had occurred in the Rotherham area, as detailed in the report, but to date the Convictions element of the Policy had not been reviewed. Officers stressed that in their professional view to do nothing was not an option.

A draft Convictions Policy template, had been made available to all licensing authorities to use and amend as they considered fit in order to reflect their concerns locally. This had been provided by the Regulation section of the Local Government Association and the document was to be considered by all the District and Borough council’s within Lincolnshire.

In order for WLDC officers and Members to be in a position to grant licence applications, the Local Government (MP) Act 1976 at s.59(1)(a) stated that: *a district council shall not grant a licence to drive a hackney carriage unless they are satisfied that the applicant is a fit and proper person*. The revised draft convictions policy would provide good clear guidance on the criteria which officers and Members could take into account when determining whether or not an applicant or an existing licence holder was a fit and proper person to hold a hackney carriage/private hire licence, bearing in mind that the overriding aim was to protect the safety of the public.

It was stressed that the greatest advantage in having a policy that was based on one common template was that, in the main, all the Lincolnshire authorities could apply a consistent approach when dealing with the relevant matters. The draft policy was almost five times greater than the current policy used and was much more in depth and far more comprehensive in its compilation.

It was noted that consultation had commenced and to date two consultation responses had been received, this being from Councillors Cotton and Councillor Smith.

Councillor Cotton's response related to paragraph 5.3 and concern had been raised that its current wording did not reflect the true position. A Court could not reduce the period of disqualification from driving, but rather offer a rehabilitation course, that if accepted and completed, would reduce the period of disqualification. In light of this the Licensing Team Manager shared with the Committee some proposed alternative wording for this paragraph, this being :

“In this policy the term “disqualification” refers to the period served, to take account of the fact that a period of disqualification may be reduced upon the successful completion of a relevant driver rehabilitation course. An applicant must provide the Licensing Authority with sufficient evidence to prove that the period of disqualification was so reduced.”

Agreement was sought and received from Members that the revised wording offered should be used in the Policy.

Councillor Smith's consultation response had referred to the offences listed under paragraph 7.3 of the Policy in particular, possession of a firearm. There was a view that possessing a firearm, in some circumstances (ie with a licence) was not an offence and hence the wording of the paragraph had been amended for the avoidance of doubt to read “Possession of an illegal firearm / illegal possession of a firearm”. However, since having amended this section, the Licensing Team Manager advised that he had been liaising with colleagues across the County regarding this matter and their view was that as this was a Convictions Policy this was implicit.

Committee debated at length whether the Policy wording should remain amended and as currently stated, or whether the original Regulation section of the Local Government Association wording should be re-instated. Following much discussion as to the pros and cons it was agreed to re-instate the LGA Regulation section wording so as to read “Possession of a firearm”.

In responding to Members' questions, the Licensing Team Manager confirmed that neighbouring authorities were currently taking similar proposals through their relevant governance structures, as referred to in paragraph 3.3 and 3.4 of the cover report. Furthermore, it was likely that this would happen nationwide, in response to the Rotherham enquiry and the findings therefrom. Officers also outlined the stringent process applicants must adhere to in applying for a licence, including an enhanced level DBS check and providing what were deemed “Group1” and/or “Group 2” documents by way of offering assurance that this process addressed the issue of identity fraud.

Finally debate turned to the wording of the first two offences listed under Section 7.3 of the report, namely: -

- Malicious wounding or grievous bodily harm which is racially aggravated.

- Actual bodily harm which is racially aggravated.

Some Members were of the view that these should be amended to read: -

- Malicious wounding or grievous bodily harm **including that** which is racially aggravated.
- Actual bodily harm **including that** which is racially aggravated.

as without this additional wording, there was concerns that malicious wounding / grievous bodily harm / actual body harm that was not racially motivated was not addressed in the Policy and could in effect create a “loop-hole”.

Lengthy debate ensued during which it was noted that the wording had been provided as a national template by Local Government Regulation, Officers had requested that Legal Services review the document in its entirety and it was therefore suggested that this matter be raised with them in the first instance and an amendment made thereafter if required. Committee were content with this proposed course of action.

Following much debate, on that basis it was resolved that: -

RESOLVED that:

- (a) the draft Conviction Policy, attached as Appendix 1 to report LR.22 15/16 be approved subject to the two amendments agreed during the course of the debate namely: -
 - (i) that paragraph 5.3 be amended to read “In this policy the term “disqualification” refers to the period served, to take account of the fact that a period of disqualification may be reduced upon the successful completion of a relevant driver rehabilitation course. An applicant must provide the Licensing Authority with sufficient evidence to prove that the period of disqualification was so reduced” and
 - (ii) that the wording in paragraph 7.3 relating to the possession of a firearm be re-instated to the original LGA Regulation Section wordingand any changes made as part of the ongoing consultation process ; and
- (b) Following the consultation period with the stakeholders, and further discussion with legal services regarding the wording of section 7.3, any arising proposed policy changes be **RECOMMENDED** to the Prosperous Communities Committee for approval and adoption (any adverse

comments made through the consultation process to be dealt with by the Licensing Manager in consultation with the Chairman and Vice-Chairman of the Licensing and Regulatory Committee)

The Chairman wished one and all a very Merry Christmas.

The meeting concluded at 7.17 pm

Chairman