

# Minutes

## Licensing Committee

13<sup>th</sup> February 2008



Present:

Councillors	Present	Councillors	Present
M J Banthorpe (Chairman)	Yes	M Lynch	Yes
K E Bigden	Apologies	T McArdle	Yes
J C Collar	Yes	A M Meyer	Yes (from 7.22pm)
J G J Elliott	Yes (from 7.57pm)	Mrs J A Pell	Apologies
J H G Finbow	Yes	D E A Rice	Yes
Mrs S A Howell	Yes	A F Shelton	Apologies
P J Hughes	Apologies	F Swallow	Yes
E R Lynch	Yes		

### 28 DECLARATIONS OF INTEREST

INFORMATION: There were no interests declared.

### 29 MINUTES

DECISION: That the minutes of the meeting of the Licensing Committee held on 12th December 2007 be approved as a correct record and signed by the Chairman.

### 30 QUESTION TIME

There were no questions asked or statements made.

### 31 PAVEMENT PERMIT POLICY – SUGGESTED AMENDMENT

INFORMATION: Consideration was given to a report on a proposed amendment to the Council's Pavement Permit Policy.

Members were reminded that in determining an application for a pavement permit in December 2007, the Committee had permitted the use of halogen heaters as a form of outdoor heating contrary to clause 12 of the Council's Pavement Permit Policy. This stated that no patio or outdoor space heaters were to be allowed in a permitted area. However, the Committee had considered that at the time of adoption of the policy this clause had related specifically to 'bottled gas' heaters, whereas halogen heaters were a more acceptable form of heating.

For the purpose of clarity it was proposed that clause 12 should be rewritten to reflect the Committee's decision of December 2007.

DECISION: **That it be Recommended to Council** that Clause 12 of the Pavement Permit Policy be amended to read:-

12. The Council will not permit the use of bottled gas fuelled heaters in the permitted area.

32 **DRESS CODE FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS - ADOPTION**

INFORMATION: Members were reminded that at their meeting on 10<sup>th</sup> October 2007 they had endorsed, in principle, the introduction of a dress code for Hackney Carriage and Private Hire Drivers, subject to consultation with the 'taxi' trade. The Committee was advised that this consultation had been carried out between 15<sup>th</sup> January 2008 and 4<sup>th</sup> February 2008 and details of the responses received were set out in the report attached to the Agenda.

In considering the responses to the consultation, Members queried how a dress code might be enforced. They suggested that the Council should not be too prescriptive, but that instead drivers should be required to be of a smart appearance. It was noted that to be enforced, a dress code would have to be stipulated as a condition of a driver's licence.

DECISION: That the Officers be requested to review the proposed introduction of a dress code and to report back to the next meeting of the Committee as to whether this should be enforced as part of the drivers' licensing conditions, or issued as guidance only.

33 **PENALTY POINTS SCHEME FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND OPERATORS - ADOPTION**

INFORMATION: Members were reminded that at their meeting on 10<sup>th</sup> October 2007 they had endorsed, in principle, the introduction of a penalty points scheme for Hackney Carriage and Private Hire Drivers and Operators, subject to consultation with the 'taxi' trade. The Committee was advised that this consultation had been carried out between 15<sup>th</sup> January 2008 and 4<sup>th</sup> February 2008 and details of the responses received were set out in the report attached to the Agenda

In considering the responses to the consultation and in discussing this item, Members were advised that the purpose of the scheme was to assist and support the Council's Officers administratively and that it would not replace, or be in addition to, existing statutory requirements.

Members suggested that the penalty points scheme should be amended to take account of the views put forward following consultation and those expressed during the debate and that the revised scheme should be presented in full to a future meeting of the Committee including information on how the scheme would operate and what role the Driver's Panel would have in the process.

DECISION: That the Officers be requested to review the proposed introduction of a penalty points scheme taking account of views put forward by Councillors and following consultation and to present a revised scheme in full to a future meeting of the Committee including information on how the scheme would operate and what role the Driver's Panel would have in the process.

## **AMENDMENTS TO THE CONSTITUTION - DELEGATION OF POWERS TO THE LICENSING COMMITTEE AND OFFICERS**

INFORMATION: Consideration was given to a report on proposed amendments to the Constitution of the Council in respect of Licensing Hearings and Private Hire and Hackney Carriage Drivers Licences, and a proposed amendment to the terms of the functional responsibilities of the Driver's Panel.

Members were advised that Licensing Hearings and their procedures were governed by the Licensing Act 2003 (Hearing) Regulations 2005. These Regulations imposed a strict timetable on the Council as Licensing Authority to hold a Licensing Hearing, where representations had been submitted, within twenty working days following the closure of the public representation period. However, concern had been expressed that in adhering to this strict timetable the Council had had to commence Licensing Hearings where negotiations between Hearing parties were continuing with a view to resolving representations and potentially making it unnecessary to hold a Hearing. It was noted that the Regulations authorised a Licensing Authority to manage Hearings and procedures in certain circumstances. Specifically, Regulation 12 provided powers to adjourn a Hearing to a specified date, or to arrange for a Hearing to be held on specified additional dates where this was felt necessary for the consideration of any representations, or notice made by a party. Regulation 11 authorised the Licensing Authority to extend the time limits as specified within the Regulations, where it considered it necessary in the public interest. The Constitution in its present form did not enable an adjournment, or the extension of time limits without the need to convene a Hearing. It was proposed that Part 3, Section 5 of the Constitution – Schedule of Functions Delegated to Officers (Licensing Functions) be amended to delegate powers to the Head of Law and Governance to adjourn Licensing Hearings in accordance with Regulation 12 and to extend time limits in accordance with Regulation 11.

With regard to Hackney Carriage and Private Hire Drivers, Members were reminded that the Council had previously authorised Officers to suspend licences relating to Hackney Carriage and Private Hire Drivers. However, it had subsequently been identified that Officers did not have the necessary powers to suspend a driver's licence without the need to convene a meeting of the Driver's Panel and to bring the driver before it. Furthermore, Members were advised that Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 enabled a Local Authority to suspend a Hackney Carriage and/or Private Hire driver's licence where there was reasonable cause. Use of these powers would enable the Council to suspend a driver's licence with immediate effect where it had serious concerns about the "fitness" of the driver in relation to public safety following the receipt of evidence/information requiring investigation. To enable Officers of the Council to take effective enforcement action and to suspend a driver's licence where information/evidence had been received it was proposed that Part 3, Section 5 of the Constitution – Schedule of Functions Delegated to Officers – Licensing Functions should be amended.

The Committee was advised that the Constitution currently enabled the Driver's Panel to make decisions on new applications for drivers' licences where a driver had six or more penalty points, or an unspent disqualification, or criminal record and decisions on the continuation of a driver's licence following a serious complaint. However, the Driver's Panel was not able to consider the continuation of a driver's licence on the

occurrence of any other event as specified in the Council's licence conditions for Hackney Carriage and Private Hire Drivers, or in the Local Government (Miscellaneous Provisions) Act 1976. In order to ensure that the functional responsibilities of the Driver's Panel were correctly recorded, Members were requested to approve the amendment of Part 3, Section 6 of the Constitution – the functional responsibilities of the Driver's Panel.

DECISION: **That it be Recommended to Council:-**

- (1) That Part 3, Section 5 of the Constitution – Schedule of Functions Delegated to Officers be amended to include:-

The Head of Law and Governance, in consultation with the Chairman of the Licensing Committee, be authorised to adjourn a Licensing Hearing in accordance with the Licensing Act 2003 (Hearing) Regulations 2005.

The Head of Law and Governance be authorised to exercise powers to extend the time limits set out within the Licensing Act 2003 (Hearing) Regulations 2005.

That, in consultation with the Head of Law and Governance, the Development Director be authorised to suspend Hackney Carriage and /or Private Hire Drivers Licences under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) immediately, if in their opinion it is in the interest of public safety that the suspension should have immediate effect, such suspension to last until the day after the next meeting of the Driver's Panel.

- (2) That Part 3, Section 6 of the Constitution – the functional responsibilities of the Driver's Panel be amended to include the following:-

To make decisions on the continuation of any Private Hire/Hackney Carriage/Dual Driver's Licence where event/s as specified in the Conditions of a Hackney Carriage and Private Hire Driver's Licence, and/or the Local Government (Miscellaneous Provisions) Act 1976 (as amended), has/have arisen.

The meeting commenced at 7.15pm and closed at 8.05pm.

M J BANTHORPE  
(Chairman)