



MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE

MEETING DATE Wednesday, 1 February 2017

MEMBERS PRESENT: Councillor Anthony Gee (Chair), and Councillors Jean Cronshaw, Gordon France, Margaret France, Hasina Khan, Sheila Long, Adrian Lowe, Mick Muncaster and John Walker

OFFICERS: Lesley Miller (Regulatory Services Manager), Alex Jackson (Legal Services Team Leader), Conrad Heald (Market Walk, Markets and Town Centre Manager), Carl Gore (Empty Properties and Enforcement Officer) and Nina Neisser (Democratic and Member Services Officer)

APOLOGIES: Councillors Marion Lowe, Tom Gray, Kim Snape and Ralph Snape

RESERVES: Councillors Aaron Beaver and Roy Lees

17.LPS.60 Minutes of meeting Wednesday, 23 November 2016 of Licensing and Public Safety Committee

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 23 November be confirmed as a correct record for signing by the Chair.

17.LPS.61 Declarations of Any Interests

No declarations of any interests were received for any of the items on the agenda.

17.LPS.63 Minutes of the General Licensing Sub Committees

RESOLVED – That the minutes of the General Licensing Sub Committees held on 25 November 2016 and 7 December 2016 be confirmed as a correct record.

17.LPS.64 Part Time Relocation of the High Street Taxi Rank

The Director of Early Intervention and Support submitted a report to advise the Licensing and Public Safety Committee on the results of the consultation to relocate the High Street taxi rank on Market days (Tuesdays); as part of the Market Walk Extension and wider town centre improvements.

The Licensing and Public Safety Committee gave approval on 23 November 2016 to consult on the proposed changes to the High Street taxi rank location, which is the responsibility of the Licensing and Public Safety Committee under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.

A consultation letter was sent directly to registered Hackney Drivers; 13 responses out of 153 (9.6%) were received. 4 were in agreement and 9 disagreed with the proposal – 122 didn't respond. The public consultation via Survey Monkey resulted in 56 responses of which 46 (75%) were in agreement and 15 (25%) disagreed.

It was also indicated that the Taxi Rank Relocation matter was taken to the Licensing Liaison Panel held in January 2017 where those present were in favour of the proposals. There was no Hackney Carriage representation at the meeting.

Relocating the rank on Tuesdays between 6am and 6pm around the corner to Cleveland Street would enable Chorley's outdoor market to take place along High Street, in addition to a number of other pedestrian streets in the town centre. Chorley Markets are an important part of the town's history and economy and the Council wants to ensure that the markets continue to thrive well into the future. The changes proposed in this report would support all existing stalls holders; both permanent and temporary to be offered a space when it relocates.

In addition to the proposed changes to the taxi rank location, there are a number of other changes to TRO's which would be required. These changes are the responsibility of the Highways Authority who responded indicating that it would be best facilitated under a Temporary Traffic Regulation Order (TTRO) which would enable changes to be made in the future should they be required if, after a period be operational practise, it proves necessary.

The committee addressed the public questions that had been submitted prior to the meeting and Conrad Heald, Market Walk, Markets and Town Centre Manager, provided responses to these questions. It was stated that the council could not give any reassurance in writing about the future location of the taxi rank as the new town centre masterplan proposed the redevelopment of High Street and Cleveland Street in conjunction with the new Civic Square. These outline proposals had already been consulted upon alongside the relocation of the Flat Iron market in October 2016 and further consultation would take place as plans are further developed. The committee were informed that this was a temporary location change in the initial instance, however if this was anticipated to change the Trade would be consulted.

Secondly, it was confirmed that the Portland Street car park could not be used as an alternative location for the market stalls on Tuesdays (Market Day). Following consultation on the proposed temporary relocation of the Flat Iron market, the preferred location given by traders, businesses and the public was for it to be centralised around the pedestrian zone. The parking provision on the Flat Iron car park would be halved by the new development so Portland Street car park would be used as a primary parking location for shoppers to the town centre.

Thirdly, members were informed that Cabinet Officer Guidance used to recommend that consultations run for 12 weeks. However, Cabinet Office Guidance, last updated in January 2016, stated that consultations should be for a proportionate amount of time. An informal consultation period lasting at least as long as the formal statutory consultation period is proportionate. Section 63 of the 1976 Act only requires the

formal 28 day statutory consultation. The council has had a voluntary consultation, not required by law since 24 November 2016; therefore the council has gone beyond the minimum legal requirement. The consultation period commenced immediately following the previous Licensing & Public Safety Committee on 23 November 2016 and ran for 8 weeks until 22 January 2017.

Finally, with regards to the process of changing the TRO, Lancashire County Council agreed that any changes to the TRO's will be done as Temporary Traffic Regulation Orders (TTRO's) due to the uncertain effect of all the changes occurring simultaneously around the town centre over the next 18 months and they can be implemented within approximately 12 weeks.

Following discussion, the committee was reassured that access to the service yard for deliveries at the bottom of high street would be managed by Chorley Council. The Council had consulted with tenants who have access to the service yard and it was agreed that they would be prepared to work with the council around this by organising deliveries at a different time or different day to make this change more convenient.

After careful consideration and much discussion it was proposed by Councillor John Walker, seconded by Councillor Adrian Lowe, and subsequently **RESOLVED unanimously;**

- 1. to authorise Officers to commence the formal statutory 28 day consultation required under the Local Government (Miscellaneous Provisions) Act 1976 and arrange for a notice in the local press and notice to the Chief Officer of Police.**
- 2. In the event that no further representations are made within the 28 day statutory consultation period which oppose the new rank (or only those which are deemed to be vexatious or frivolous by officers in consultation with the Chair of Vice-Chair) delegated power be given to the Director of Early Intervention and Support to appoint the temporary hackney carriage stand outlined in the report to take all necessary steps to effect this.**
- 3. In the event that further representations are received within the 28 day statutory consultation period which oppose the relocation of the rank on market days and which do not fall into the vexatious or frivolous category outlined above, a report will be submitted to a special meeting of the Licensing and Public Safety Committee for consideration as soon as possible after the expiry of the 28 day statutory consultation period.**

17.LPS.65 Introduction of a General Licensing Safeguarding and Suitability Policy

The Director of Early Intervention and support submitted a report for the Licensing and Public Safety Committee to consider the proposed General Licensing Safeguarding, Suitability and Convictions Policy to support the Council's licensing policies in the future.

Following the approval and adoption of the Safeguarding, Suitability and Convictions Policy for Taxi Licensing in 2015, a General Licensing Safeguarding, Suitability and Convictions Policy has been produced to cover a number of other licensing functions to ensure a consistent approach to all licensing matters in the future and enable efficient decision making.

Members were made aware that the legislation and byelaws associated with many of the Council's Licensing functions do not reflect our current thinking in relation to safeguarding and risks, and therefore do not allow the consideration of wider issues in determining or applying conditions to licences.

The Regulatory Services Manager drew Member's attention to the colour-coded table included in the report which indicated the risks and flexibility around this. Although legislation does not always support the implementation of conditions in relation to safeguarding considerations, members should note that there are also illustrations of good practice, promoted and encouraged by the Council. For example, Riding Schools commonly accommodate the teaching of children and also people with both physical disabilities and learning disabilities at their facilities. Legally we are unable to apply stringent safeguarding requirements. However, the British Horse Society has safeguarding guidelines and support for its members. The Council, through its policies, can encourage its licensed establishments to follow such guidelines and in this way provide as much reassurance to the public as possible.

Following adoption of the General Licensing Safeguarding, Suitability and Convictions Policy the Council would need to consider a programme for the review of the Licensing and Consent Policies and Procedures to ensure that they are updated and reflect the principles laid down by the Council in relation to Safeguarding, Suitability and Convictions. This would include the proposed introduction of a Street Trading Policy, and where applicable, Animal Welfare Licensing and HMO Licensing policies. It was anticipated that reviews and timetables would be reported to future Licensing and Public Safety Committees.

Members expressed concern at the wording included in the Policy with regards to a sex-shop licence stating that access for under 18's be 'limited'. However reassurance was provided that a condition was included within the sex shop license to ensure that no under 18's are allowed on the premises and therefore prohibition was already in place and covered by other parts of the legislation. It was verbally agreed that the wording of which on the Policy would be updated to 'prohibited'.

After careful consideration it was proposed by Councillor Adrian Lowe, seconded by Councillor Hasina Khan, and subsequently **RESOLVED unanimously**;

- 1. to agree the implementation of the proposed General Licensing Safeguarding, Suitability and Convictions Policy to support the Council's licensing policies in the future, where applicable.**
- 2. that delegated power be granted to the Director of Early Intervention and Support to make amendments to the policy from time to time to reflect any changes in legislation or case law.**

17.LPS.66 Street Trading Policy

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to consider the consultation responses to the draft Street Trading Policy and agree the timescale for review of the Policy.

The Street Trading Policy refers to the General Safeguarding, Suitability and Convictions Policy that was determined earlier in the meeting by the Committee to support the decision making process.

The Policy will be a living document, so where legislation changes occur or decisions that impact on the policy are made by the Licensing and Public Safety Committee over the life of the policy, the document will be updated to reflect this. However, the philosophy would be that the policy, which has been consulted upon, would be the basis for all decisions and in normal circumstances the policy would only be subject to revision at the regular, timetabled review dates, where the changes would be subject to consultation.

The draft policy was out for consultation for a period of 12 weeks to the end of December 2016; each current consent holder was written to and provided a link to the council's website, where the document was published.

The Council received one brief consultation response from a Consent Holder providing support for the introduction of a policy and suggested that the Council limit the number of Consents. However, other authorities operating a licensing scheme rather than a consent scheme have greater scope to limit numbers as the licensing provisions lend themselves to licensing pitches rather than providing a consent to operate within the wider borough limited only by prohibition on trading on certain streets and in specified areas.

There are currently 23 issued Consents, 17 of which are to applicants from within the Chorley Borough area, 6 from outside. Although Street Trading is very seasonal therefore the council often receives more applications in spring and requests to surrender and have the remaining months refunded as winter approaches, therefore putting a limit on this number was not recommended. It was suggested that this be monitored and brought back to committee if there were any significant issues.

The Street Trading Policy introduced a requirement for the applicant to complete a basic Disclosure and Barring Services (DBS) check, this may be by electronic update service. The cost of the DBS would be borne by the applicant. It was anticipated that this may naturally limit numbers.

The fees for Street Trading Consents have not been reviewed for a number of years. Chorley Council Finance Department have been asked to review the current fees in line with the requirement to ensure they reflect the cost of administering the consent and any additional enforcement or inspection costs associated with the consent.

Following discussion and careful consideration its was proposed by Councillor Adrian Lowe, seconded by Councillor John Walker and subsequently **RESOLVED unanimously;**

- 1. to note the consultation response received on the proposed Draft Street Trading Policy**
- 2. that the Street Trading Policy be implemented with immediate effect.**
- 3. that a formal review and consultation of the Street Trading Policy be timetabled for 3 years.**
- 4. that delegated power be granted to the Director of Early Intervention and Support in consultation with the Chair and Vice-Chair to make**

amendments to the policy from time to time arising from changes to legislation or case law.

- 5. the delegated power be granted to the Director of Early Intervention and Support in consultation with the Chair and Vice-Chair to review the fees for Street Trading Consents and apply the revised fees.**

17.LPS.67 Consolidated Taxi Licensing Policy

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to consider the consultation responses to the draft Consolidated Taxi Licensing Policy and agree the timescale for review of the Policy.

The Hackney Carriage and Private Hire Licensing Policy consolidates all previous Taxi Licensing policies, therefore the Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees. Members were informed that additional proposals were raised during the consultation period and were discussed at the Licensing Liaison Panel which were to be subsequently addressed at the meeting.

The Draft Policy was put out for consultation for a period of 12 weeks to the end of December 2016, each licensed driver, vehicle proprietor and private hire operator was written to and provided a link to the Council's website, where the document was published.

Due to the volume of recommendations included in the report, the committee agreed to consider and vote on each recommendation individually in turn.

The Regulatory Services Manager drew Members' attention to the first consultation response that was received from Coopers Taxis, the largest Private Hire Operator in the Borough. The email suggested the mandatory installation of CCTV in all vehicles, new and existing, for the following reasons; it had been recommended as part of the Safeguarding Awareness Training which was delivered to Members and the Trade in 2016. The cost of CCTV installation had reduced dramatically in recent years and camera systems could now be purchased for as little as £30. Responses from the Safeguarding Forum suggested that this practice was beneficial for drivers. For example, if a serious accusation is made against a driver they can be dealt with immediately and thus avoid the driver facing suspension whilst the incident is investigated. Members were made aware that this proposal had been raised with the Trade and the Licensing Liaison Panel in January 2017 and members present supported the suggestion.

With regards to a timescale for implementation it had been suggested at the Licensing Liaison Panel either the 1 January 2018 or 1 April 2018 for existing vehicles and new vehicles on grant. Members were informed that this time period would allow operators to install sophisticated systems if they desired. Members agreed that personal choice would suggest that they would want to install the systems as soon as possible and therefore recommended that this be exercised imminently but only mandatory by 1 January 2018. This also led members to suggest that no restrictions be made on the make or model as long as it was in compliance with the ICO guidelines.

Following further discussion and a verbal amendment to the recommendation by the Regulatory Services Manager, Members agreed to include a condition that the CCTV

footage must be kept for a minimum of 28 days. Ultimately, the responsibility for storage would lie with the proprietor.

Furthermore, members agreed that signage must be visible in vehicles at all times to indicate that CCTV footage was present and being filmed in the vehicle. However, the Trade were reassured that if required to observe CCTV footage, the authorised Council officer would only look at the specifics required to ensure no infringement on the privacy of the proprietor.

Further to this, the Legal Services Team Leader suggested the inclusion of an additional condition that Private Hire Operator or Vehicle Licence Holder's must ensure CCTV footage be made accessible and available for copying at Council premises when required by authorised Council Licensing Officers. Failure to abide by this would be a breach of their licence condition which would become a fit and proper issue to be settled at the general licensing sub-committee.

Following discussion and considering all the relevant factors it was proposed by Councillor Adrian Lowe, seconded by Councillor John Walker and subsequently **RESOLVED to; a) note the consultation responses received on the proposed Draft Hackney Carriage and Private Hire Licensing Policy and agreed that CCTV be installed in all vehicles licensed by Chorley Borough Council including the following conditions;**

- 1) **CCTV must be implemented in existing vehicles no later than 1 January 2018 and implemented in new vehicles on grant.**
- 2) **CCTV footage must be kept for a minimum of 28 days and comply with the data collection and storage rules set out by the Information Commissioner's Office. Appropriate conditions to secure this to be imposed as standard on grant of all private hire operator licenses, private hire vehicle licences and hackney carriage vehicle licences.**
- 3) **CCTV footage must be made accessible when required by an authorised Licensing Officer of the Council and available for copying by an authorised Officer on council premises; failure to do so would result in the breach of the operator's licence or hackney carriage proprietor's or private hire vehicle licence. Appropriate conditions to secure this to be imposed as standard on grant of all private hire operator licences, private hire vehicle licences and hackney carriage vehicle licences.**
- 4) **That signage indicating the use of CCTV must be visible in the vehicle at all times.**

Members were made aware that the second consultation response was from the Guide Dogs Association requesting the inclusion of the condition in relation to carrying assistance dogs. Chorley Council already have conditions in the Policy in relation to assistance dogs, however, it was suggested that the committee may want to consider whether the Council adopt the wording proposed by the Guide Dogs Association and also the requirement for Tactile Medical Exemption Certificates, which allows those partially sighted or blind passengers to ensure that the certificate is valid.

Following discussion it was proposed by Councillor Mick Muncaster, seconded by Councillor Tony Gee and subsequently **RESOLVED that; b) the Policy included the proposed wording suggested by the Guide Dogs Association and included a requirement for any medical exemption certificate in relation to assistance dogs to be produced in a tactile format.**

Members were reminded that at the last Licensing and Public Safety Committee in November 2016, following research into MOT pass and fail rates for Chorley Licensed Vehicles, Officers raised concerns about the clear lack of preventative maintenance carried out to a large proportion of the vehicles checked. Members recalled that there were high percentages of vehicles failing MOT's on numerous occasions and also issues with advisory notes, in particular with relation to tyres close to legal limits, worn brakes and suspension issues, where those issues were then being shown as the reason for failure at subsequent tests.

As a result, Members considered whether to introduce a change on the existing Chorley Council Taxi Test whereby a vehicle will fail the test where there are MOT advisory notes on the MOT certificate. Therefore, proprietors would be required to address these issues before a vehicle licence can be issued or renewed. Members were reminded that the Taxi Test endorsed by the Council must be equivalent to or better than the VOSA MOT test, which assesses the vehicle to a minimum mechanical standard.

Members also considered the lack of enforcement resources available to the Council which meant that there were limited opportunities for officers to carry out rank inspections and other proactive interventions such as ANPR events. Therefore, the Council's Enforcement Officers were less likely to pick up on defects and issues such as worn tyres in the routine work as proactive inspections are infrequent due to the volume of reactive work.

Following discussion and careful consideration it was proposed by Councillor Hasina Khan, seconded by Councillor Adrian Lowe and subsequently **RESOLVED to; c) include the condition that a Council's Taxi Test not only requires the vehicle to pass an MOT test as part of the testing regime, but that the vehicle will fail the Council's Taxi Test were there are advisory recommendations noted on that MOT.**

In addition, Members were asked to consider the removal of the existing procedure, which allows for a Licence to be renewed in the absence of a DBS certificate where the DBS application has been made in a timely fashion (28 days prior to the expiry date). This allowance was agreed in 2015 in order to be flexible to existing licence holders and renew on the basis that there was no evidence at renewal that the applicant did not meet the fit and proper test. However, it was suggested that this was not good practice and therefore it was recommended that Members change the policy to a 'No DBS Certificate – No Licence' approach.

Members were advised that applicants were invited to start their renewal application and obtain their DBS and Medicals up to 3 months prior to the expiry of their licence to limit the potential for the licence to lapse. Most delays in DBS certificates being returned were as a result of the applicant failing to provide all the information for the application in a timely manner. With the new online system they register then delay the process by waiting before they are reminded to complete the ID verification. If they complete all the application steps swiftly, then the DBS is usually processed within 7 days.

In considering this and following discussion amongst Members it was proposed by Councillor Gordon France, seconded by Councillor Cronshaw and subsequently **RESOLVED to; d) remove the allowance (when a driver has made a timely application for a DBS check i.e. 28 days before the renewal date) for a Licence to be renewed in the absence of the DBS certificate.**

Members were asked to resolve a deficiency in the vehicle conditions and attach an age limit of six weeks to the HPI check at the point it is presented with the vehicle for inspection, to prevent old checks being presented. At present the Council would have to accept these, as the Policy does not currently require the HPI to be recent in nature and does not support the need for a more up to date check. Six weeks was considered a suitable age for the HPI check, with officer discretion, as it would allow enough time for an applicant to have the check made before purchasing the vehicle and have the log book returned by the DVLA.

Following discussion it was proposed by Councillor Jean Cronshaw, seconded by Councillor Adrian Lowe, and subsequently **RESOLVED that; e) an age limit of six weeks be attached to the HPI check required by the vehicle conditions with Officer discretion included.**

Members were informed about a consultation response received from the Council's Customer Services Department. It was requested that with particular regard to new driver applications, the Policy require all supporting documentation, such as a DBS certificate, medical, driver qualifications be submitted before the application is accepted and the fee taken. This exercise was already encouraged, however not currently set out in the policy to support this.

It was felt that this would improve efficiency and reduce the administration in chasing up elements of the application or processing refunds for rejected applications. The only item outstanding after the acceptance of the application and fee would be the knowledge test and associated safeguarding training and test, which would be arranged with the Council on receipt of the application.

Following discussion it was proposed by Councillor Jean Cronshaw, seconded by Councillor Gordon France and subsequently **RESOLVED that; f) all supporting documentation be provided to Customer Services before a new driver application can be accepted.**

With regards to the implementation of the Consolidated Taxi Licensing Policy itself, it was proposed by Councillor Adrian Lowe, seconded by Councillor Jean Cronshaw and subsequently **RESOLVED that; g) the Consolidated Taxi Licensing Policy be implemented with immediate effect.**

Members agreed that the Consolidated Taxi Licensing Policy was a living document and therefore it was proposed by Councillor Adrian Lowe, seconded by Councillor Gordon France and subsequently **RESOLVED that; i) a formal review of the Consolidated Taxi Licensing Policy be timetabled for 3 years.**

j) delegated power be granted to the Director of Early Intervention and Support in consultation with the Chair and Vice-Chair to make amendments to the policy from time to time arising from changes to legislation or case law.

Chair

Date