



MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE

MEETING DATE Wednesday, 21 September 2016

MEMBERS PRESENT: Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Keith Iddon, Hasina Khan, Sheila Long, Adrian Lowe, Matthew Lynch, Mick Muncaster, Kim Snape and John Walker

OFFICERS: Louise Elo (Head of Early Intervention), Lesley Miller (Regulatory Services Manager), Tracy Brzozowski (Licensing Enforcement Officer), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)

APOLOGIES: Councillor Gordon France, Margaret France and Tom Gray

16.LPS.37 Minutes of meeting Wednesday, 20 July 2016 of Licensing and Public Safety Committee

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 20 July 2016 be confirmed as a correct record for signing by the Chair.

16.LPS.38 Declarations of Any Interests

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

16.LPS.40 Minutes of the General Licensing Sub Committees

RESOLVED – That the minutes of the General Licensing Sub Committees held on 27 July 2016 and 17 August 2016 be confirmed as a correct record.

16.LPS.41 Minutes of the Licensing Act 2003 Sub Committee Meetings

RESOLVED – That the minutes of the Licensing Act 2003 Sub Committee held on 8 August 2016 be confirmed as a correct record.

16.LPS.42 Introduction of a General Licensing Safeguarding and Suitability Policy

This item was withdrawn from the agenda.

16.LPS.43 Introduction and Consultation on a Street Trading Policy and Review of Conditions

The Director of Early Intervention and Support submitted a report for members to consider the introduction of a Street Trading Policy, including the proposed reviewed conditions and recommended amendments to the Council's Constitution containing the Scheme of Delegation as agreed.

Chorley Council currently operates a Street Trading Consent scheme in accordance with the Local Government (Miscellaneous Provisions) Act 1982 which is required to allow trade in designated streets across the borough. The council does not, however, have an existing Street Trading Policy to support the scheme or guide decision making. The current Street Trading Consent conditions have not been reviewed for a number of years and lack clarity with regard to conduct, food safety standards and safeguarding of the public. Therefore, policy proposals (including the introduction of basic Disclosure and Barring Services (DBS) check requirements) were submitted to the Licensing and Public Safety Committee to ensure the implementation of suitable and sufficient conditions for the Street Trading Consents.

It was requested that members of the Licensing and Public Safety Committee agree to a consultation on the draft Street Trading Policy, including conditions as outlined in the report, in addition to a review of the fees and charges for the scheme. Members were provided with three options to consider in relation to the Council's Scheme of Delegation which would need to be amended to include delegation to officers to revoke consents where breach of conditions are found, where offences may have been committed or in other circumstances set out in the policy.

With regards to delegation, Option 1 recommended to implement the report as written, where all decisions for grant are delegated to officers, with only the refusal of consent applications and revocation delegated to the Director in consultation with the Chair and Vice-Chair of the Licensing and Public Safety Committee and a referral mechanism to General Licensing Sub-Committee for cases of particular complexity or unresolved dispute between traders.

Option 3 mirrored this with the addition of an internal appeal procedure, where applicants refused consent or subject to revocation can appeal to the General Licensing Sub-Committee. Members were informed that the current Street Trading Consent scheme did not include a right of appeal and were advised that having an internal appeals process was appropriate. The Legal Officer advised it be appropriate to include that licence holders have a right of 21 days from the time of the deemed receipt to appeal as this is the appeal period against decision in relation to taxi licences and applications under the Licensing Act 2003.

Option 2 amended the report so that the grant of consents be delegated to officers, revocation be delegated to the Director in consultation with the Chair and Vice-Chair of the Licensing and Public Safety Committee and all decisions to refuse be made by the General Licensing Sub-Committee. As a result, this would introduce a right to appeal.

Following discussion, Members welcomed the adoption of the robust policy to ensure greater protection of public safety as a fundamental priority of the council. Based on this, members were minded to disregard option 2 as they felt it backtracked on the move to greater delegation. Subsequently, option 3 (including the time limit in relation to the right of appeal within 21 days from deemed receipt of the decision) was

considered the preferred option. It was believed that the policy proposals would provide stricter controls and efficient enforcement without unnecessary delays.

As a result, it was proposed by Councillor Adrian Lowe, seconded by Councillor Mick Muncaster and subsequently **RESOLVED to; agree the consultation of the Street Trading Policy and the reviewed Street Trading Consent conditions subject to the following:**

- a) **On the expiration of the consultation period the Director of Early Intervention and Support in consultation with the Chair of Licensing and Public Safety Committee be given delegated authority to make any minor amendments arising out of any consultation responses,**
- b) **On the expiration of the consultation period any major changes considered to be necessary as a result of the consultation response will be reported back to the Licensing and Public Safety Committee for further consideration and approval.**

In addition, members **RESOLVED to;**

1. **agree to a review of the fees and charges for the scheme as part of the consultation,**
2. **recommend approval to Full Council for the amendments made to the Council's Constitution and Scheme of Delegation,**
3. **determine that in relation to the scheme of delegation to implement the report as written, where all decisions for grant are delegated to officers, where only the refusal of consent applications and revocation are delegated to the Director in consultation with the Chair or Vice-Chair of the Licensing and Public Safety Committee and a referral mechanism to General Licensing Sub-Committee for cases of particular complexity or unresolved dispute between traders, also include the implementation of an internal appeal procedure, where applicants refused consent or subject to revocation can appeal to the General Licensing Sub-Committee within 21 days of deemed receipt of the decision.**

16.LPS.44 Consultation on Consolidated Taxi Licensing Policy

The Director of Early Intervention and Support submitted a report for members of the Licensing and Public Safety Committee to consider the proposal for a consolidated Taxi Licensing Policy and the consultation of the draft document.

Most functions and decisions with regards to Taxi Licensing refer to policy decisions made by the Council. The Licensing and Public Safety Committee are responsible for making these policy decisions which are held within committee reports. The purpose of the proposed consolidated Hackney Carriage and Private Hire Licensing Policy is to make those policy decisions easily accessible to promote efficiency and consistency in the Council's licensing functions.

The draft Hackney Carriage and Private Hire Licensing Policy consolidates all previous Taxi Licensing policies with additional proposals as outlined in the report including application fees, Right to Work Visas, and electronic DBS checks. 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. The proposed Policy simply consolidates these decisions into one concise document.

Members of the Licensing and Public Safety Committee welcomed the policy proposals on the grounds that the consolidated Taxi Licensing Policy would ensure great transparency for the trade and public as well as increasing decision making guidance for officers, whilst also providing efficient clarification of the justification for these decisions.

The report indicated additional policy proposals which included that DBS checks must originate through Chorley Council or through a company contracted by the Council to carry out this check, as authorised by the DBS, thereafter an electronic DBS update would be accepted. Members were informed that procedures need to be put in place to mitigate the risk of the Borough falling below the required threshold. Officer research observed that other authorities were delivering an electronic DBS service. This provided quick renewal with results being received within 48 hours as opposed to the prolonged waiting times currently experienced and therefore proved more efficient. Ultimately, it would keep admin costs to a minimum and provide the potential to increase flexibility.

Members alternatively considered the feasibility of joining up with a neighbouring authority, it was concluded however that this would provide two levels of service and would therefore become time consuming as DBS completion could take up to six weeks.

After carefully considering all factors, members were minded to propose all recommendations within the report including the updated policy decisions making them broadly fit for purpose. As a result, it was proposed by Councillor Adrian Lowe, seconded by Councillor Hasina Khan and subsequently **RESOLVED**;

- a) **To consult on the proposed Draft Hackney Carriage and Private Hire Licensing Policy which would run for 12 weeks (until 31 December 2016) following discussion with the Trade at the Licensing Liaison Meeting taking place on 5 October 2016.**
- b) **That on the expiration of the consultation period, the results and responses be reported back to the Licensing and Public Safety Committee. Officer verbally agreed to endeavour to collate all the consultation responses and report back at the meeting in February 2017.**
- c) **To determine the proposals and options for implementation and the timetable for review of policy to protect the Council's conditions on drivers and vehicles. A timeframe of 3 years for review was agreed.**

In addition it was **RESOLVED**;

1. **to amend the wording within the report to clarify the decision already made in March 2015; "where an incomplete driver application has been received, due to the absence of one or more of the pre-requisites, the**

application will be rejected following a period of 2 months from the date of the receipt of the application” to indicate that contact would be made following and period of 2 months and would then be removed after 3 months if no action was taken during this period. The aim of which is to provide greater flexibility,

2. that where the Right to Work does not extend for the length of the driver licence at the time of issue (3 years), then the licence will only be granted up to the date of the expiry of the visa. This is a legal requirement from 1 December 2016
3. that DBS checks must originate through the Chorley Council or through a company contracted by the Council to carry out this, as authorised by the DBS, thereafter an electronic DBS will be accepted. With regards to fees these would be borne by the applicant and therefore it was AGREED that they be given the option to pay this additional fee for a quick electronic check, which would identify if there are any changes since the previous DBS.

These policy amendments will be implemented immediately and are not delayed until the outcome of the consultation.

16.LPS.45Gambling Act 2005- Statement of Principles Policy Review and Consultation

The Director of Early Intervention and Support submitted a report advising members of the Licensing and Public Safety Committee of the consultation on the Statement of Principles required under the Gambling Act 2005.

Section 349 of the Gambling Act 2005 requires that the Licensing Authority prepare and publish a three year licensing Statement of Principles. The duty also requires a periodic review of the licensing statement on a date prescribed by the Secretary of State which is currently every 3 years. Consultation in relation to the proposed changes came to an end on 19 September 2016; the Licensing Authority received two responses – the final Statement of Principles would take account of this.

Due to expiration of the policy it was recommended that members of the committee approve the Statement of Principles under the Gambling Act 2005 in order to provide greater clarity on the principles to be applied by the Licensing Authority. Members of the Licensing and Public Safety Committee understood that this was a standard required practice undertaken by the Council.

As a result it was proposed by Councillor Adrian Lowe, seconded by Councillor Jean Cronshaw and subsequently **RESOLVED; to recommend approval to Full Council of the reviewed Statement of Principles (Gambling Act 2005) subject to the following:**

- a) On the expiration of the consultation period (19 September 2016) the Director of Early Intervention in consultation with the Chair of the Licensing and Public Safety Committee is given delegated authority to make any minor amendments arising out of any consultation responses.
- b) On the expiration of the consultation period (19 September 2016) any major changes considered to be necessary as a result of the consultation

response will be reported back to the Licensing and Public Safety Committee for further consideration and approval.

16.LPS.46Amendment to the Scheme of Delegation for Licensing

The Director of Early Intervention and Support submitted a report advising members of the Licensing and Public Safety Committee to consider the proposed review of the Scheme of Delegation for licensing functions.

The current Scheme of Delegation was agreed in March 2009 with minor amendments made in 2015. Members of the Licensing and Public Safety Committee requested that the current scheme was reviewed and the amendments put before them for consideration following a number of cases being brought before the General Licensing Sub-Committee where a Director decision in consultation with the Chair was considered a more appropriate approach.

The first proposal included the addition of non-standard conditions on driver licences following consultation with the Council's Medical expert. Therefore any decision delegated to officers would comply with qualified medical advice to the council. As a result, it was **agreed** that officers had authority to grant or renew or revoke and re-grant Private Hire or Hackney Carriage Driver Licences where there was clear direction from the medical expert, with the requirement for consultation with the Chair or Vice-Chair removed.

The second proposal related to the grant of exemptions on medical grounds, for example dog allergies, under Equality legislation following referral for consideration where criteria is met, and refuse where criteria is not met. This constitutes a decision that must be made with high regard to equality legislation, it was **agreed** that the requirement for prior consultation with Chair or Vice Chair be removed.

The third proposal recommended that the power currently delegated to the licensing officer to suspend a Private Hire or Hackney Carriage Driver Licence for periods not exceeding 14 days be amended to a period not exceeding 28 days to provide a safety net for the Council. Members were informed that 28 days was an appropriate timeframe and would result in reduced member involvement whereas 14 days was not a feasible time period to enable a report to be brought back to committee.

The proposal was amended at Committee following discussion and agreed that this would not be in consultation with the Chair and Vice-Chair for any period up to 28 days and if for a period for longer than 28 days in consultation with Chair or Vice-Chair where reasonably practicable. Although highly unusual for circumstances to arise where this power need to be exercised (all suspensions of driver licences with immediate effect have so far been made under the delegation to the relevant Director), members were informed that it was an essential requirement nonetheless for unusual situations where it was not possible for the Director to exercise the power e.g. at night time on the rank itself.

The current wording of paragraph 2.6 of the relevant section of the constitution was discussed in that it currently relates to both driver and vehicle licences. Therefore, the current position does not allow an Officer to suspend a vehicle licence, following an inspection, without consulting the Chair/ Vice Chair. This is impractical. Therefore it

was proposed to separate the delegations to allow more flexibility and efficient use of the legislation by officers in regard to vehicle licences.

Following discussion on the second part of paragraph 2.16 of the relevant section of the constitution, members **agreed** that the need for consultation with the Chair/Vice Chair was contrary to providing an efficient response to applicants by Officers carrying out vehicle inspections. It was agreed that where a vehicle cannot be licenced as it does not meet the Council's agreed vehicle condition then the director is delegated with the authority to refuse the application.

In relation to paragraph 2.12 of the relevant section of the constitution, members **agreed** that in addition, where a vehicle meets the Council's conditions in the main but there is a requirement for some discretion in granting of an application in the individual case, then this authority is also delegated to the Director without need for consultation on each matter with the Chair/Vice Chair.

The fourth proposal delegated authority to determine applications from qualifying alcohol licensed premises for up to an additional 2 category C-D gaming machines in consultation with Chair or Vice-Chair, where no objections have been received. This would mitigate incidents where recent applications have been taken to Sub-Committee where a big committee discussion was not required, therefore wasting committee time when deemed appropriate for officers to decide.

Members welcomed the more streamlined process and inclusion of summary tables in the relevant licensing policies as a guide to the delegations and common issues as easily digestible and transparent therefore simplifying the way decision-making is constituted.

With regards to paragraph 13 within the report members **agreed** that if and when relevant amendments to draft regulations come into force to request that the Executive Cabinet consider that functions under the Scrap Metal Dealers Act 2013 be delegated by Full Council to Licensing & Public Safety Committee rather than the Executive as it was felt more appropriate that scrap metal licensing be a council function.

After careful consideration, members of the Licensing and Public Safety Committee **RESOLVED; to recommend to Full Council that it authorises the Head of Legal, Democratic and HR Services to amend the current scheme of delegation in the Constitution to allow the following decisions to be made by the relevant Director (except in relation to paragraph c):**

- a) **Grant (or in the case of an existing licence) revoke and immediately re-grant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council's Medical expert;**
- b) **Grant exemption on medical grounds under Equality legislation following referral for consideration where criteria is met, refuse where criteria is not met (2.16 of the constitution); i.e. requirement currently in Constitution for prior consultation with Chair or Vice-Chair is removed;**
- c) **The power currently delegated to the Licensing Officer to suspend a private hire driver licence or hackney carriage driver licence for periods not exceeding 14 days (2.6 of the Constitution) is amended to a period not**

exceeding 28 days and if longer only after consultation with Chair or Vice-Chair unless consultation is not reasonably practicable and a report is submitted to the next meeting of the General Licensing Sub-Committee;

- d) Authority to determine applications from qualifying alcohol licensed premises (i.e. holding a premises licence or club premises certificate) for up to an additional 2 category C-D gaming machines, where no objections have been received.**

In addition, the Licensing and Public Safety Committee reviewed the existing Constitution and made suggestions to Full Council for the additional amendments:

- e) Authority to the relevant Director for refusal to grant and refusal to renew a Private Hire and Hackney Carriage Vehicle Licenses where the Council's vehicle conditions are not met, by amending paragraph 2.16 of the constitution and removing the requirement to consult with the Chair/Vice Chair**
- f) And, amend paragraph 2.12 of the constitution to include, where a vehicle meets the Council's conditions in the main but there is a requirement for some discretion in granting of an application in the individual case, then this authority is also delegated to the Director without need for consultation on each matter with the Chair/Vice Chair.**

Furthermore, members **RESOLVED;**

- 1. that if and when relevant draft Regulations come into force allowing the Council to choose whether scrap metal licensing should be a council or executive function that the Executive Cabinet be requested to consider recommending to Council that the Scrap Metal Dealers Act 2013 be considered a council function and delegated to Licensing & Public Safety Committee.**
- 2. to include the amended summary tables in the relevant licensing policies as a guide to the delegations and common decisions.**

16.LPS.47Any urgent business previously agreed with the Chair

The Council's Licensing Enforcement Officer gave a verbal update to the committee of urgent matters regarding the taxi trade.

At present there remains a prerequisite with the taxi trade ensuring they partake in additional tests including DVSA. Members were informed that all authorities have received the same letter stating that this will be removed on 31 December 2016. This immediate request by the DVSA has therefore provided limited time.

Following communication with the trade, officers reported that in reality taxi drivers are unable to fulfil this prerequisite prior to 31 December 2016 test appointment unavailability. Subsequently, officers sought member's approval to undergo interim measures to provide an alternative and enable new applicants to approach the council.

Officer research found numerous external companies, which provided a sound alternative and would tailor to the needs of Chorley Council. This would therefore provide greater flexibility which provides the potential to be considered as a permanent appointment once the urgent issues were overcome.

Members of the Licensing and Public Safety Committee **agreed** to grant officers the authority to investigate alternative external options and enforce emergency interim measures in consultation with the Chair and Vice-Chair.

Chair

Date