

Licensing Committee

Wednesday, 30 September 2020

Attendees: Councillor Lyn Barton, Councillor Roger Buston, Councillor Helen Chuah, Councillor Simon Crow, Councillor John Elliott, Councillor Dave Harris, Councillor Mike Hogg, Councillor Beverley Oxford, Councillor Barbara Wood, Councillor Tim Young

Substitutes: No substitutes were recorded at the meeting

Also Present:

110 Declarations of Interest

Councillor Hogg declared a non-pecuniary interest in agenda item 8, as he is a trustee of a building that shows films, and he is the holder of a personal licence issued under the Licensing Act 2003. Councillor Chuah declared a non-pecuniary interest in agenda item 8, as she is a trustee of a venue that holds a premises licence issued under the Licensing Act 2003.

111 Minutes of Previous Meeting

RESOLVED that the minutes of the meeting held on 11 August 2020 were confirmed as a correct record.

112 Have Your Say! (Virtual Meetings)

Justin Plane attended the meeting to address the Committee. He informed that Committee that he was the proprietor of a private hire company known as T&J Executive Car Services. Mr Pane asked the Committee three questions, firstly why no refund was offered on a pro-rata basis for drivers who wished to retire or give up their licence for another reason. Secondly, he enquired why it was required to pay a fee of £50 up front for a vehicle test once the vehicle was over six years old, but that no refund of this fee was given if the test was no longer needed. Thirdly in the light of the difficulties that were likely to be faced by vehicle proprietors in the years ahead, he suggested that the current policy requiring licensed vehicles to be less than five years old from the date of first registration at the time they were submitted for licensing be reconsidered. He pointed out that it was possible to purchase a four year old vehicle with two hundred thousand miles on the clock and get it licensed by Colchester Borough Council, but it was not possible to buy a six year old vehicle with only a few thousand miles on the clock and get this licensed, no matter how well the vehicle had been maintained. Mr Plane cited other Local Authorities who allowed older vehicles to be issued with a licence and made the point that this made purchasing vehicles much cheaper for

proprietors licensed by those Authorities.

Councillor Harris explained to Mr Plane that the setting and charging of fees was beyond the gift of this Committee and he therefore could not address some of the points that Mr Plane had raised, but he invited Officers to comment.

Jon Ruder, Licensing and Food Safety Manager, addressed the points raised by Mr Plane, and explained that the Committee was planning to review the Taxi and Private Hire Licensing Policy at its meeting in November, and consideration would be given to the points that he had raised in relation to vehicle ages when this happened. With regard to the issue of refunding application fees and vehicle test fees, Jon was not able to fully address these points in the meeting, but would respond fully to Mr Plane in writing afterwards.

Councillor Harris confirmed that it was planned to review the Hackney Carriage and Private Hire Licensing Policy at the next meeting of the Committee, and explained that Members could discuss and suggest amendments to the Policy at this time.

Councillor Buston addressed Mr Plane on the points that he had made in relation to fees, and explained that the Council was not allowed to make a profit out of the issuing of licences, and the fee that was charged to the applicant was simply to cover the cost of providing the service when issuing the licence.

113 Changes to the Hackney Carriage and Private Hire Licensing Policy

Sarah White, Senior Licensing Officer attended to present the report and assist the Committee with their enquiries. The Committee were advised that the Policy had been considered at its last meeting on 11 August 2020 when changes to the proposed Policy had been approved on the basis that no representations had been received following the public consultation. Since that meeting, a valid representation concerning the requirement to have an annual Disclosure and Barring Service (DBS) check for second vehicle proprietors had been discovered. Members were therefore being asked to re-consider the elements of the draft Policy to which the representation related, namely the requirement for second proprietors to have an annual DBS check. The Committee were advised that since the previous meeting, the Department for Transport had released their statutory guidance to Local Authorities which did recommend that an annual DBS check was carried out on any additional vehicle proprietor.

Councillor Buston explained that although he could see the point that was being made in the representation, he nonetheless considered that the guidance that was being issued to Local Authorities was very sensible, and concerned with the protection of the travelling public. He therefore endorsed the changes that were being proposed to the Policy.

RESOLVED that the following amendments be made to the Council's Hackney Carriage and Private Hire Licensing Policy and the amended Policy be proposed to Council for

formal adoption;

5.2 The application process to be amended to require hackney carriage proprietors, including joint owners, to provide the following information, in addition to the information already provided in relation to the vehicle being licensed –

- o A current Passport or Birth Certificate

- o Evidence that they may legally work in the UK

- Please note - If circumstances come to light during the lifetime of the licence that they no longer have a right to work in the UK, the licence will be revoked.

- o A basic Disclosure and Barring Service Check accompanied by a list of all previous convictions and any other relevant material information. The disclosure must be less than three months old when the application is made. Thereafter a DBS must be submitted every year. If they are also a licensed driver with the Council this requirement would not apply.

- o Proof of completion of safeguarding training.

5.3 The following test be included at Paragraph 2.3 of the Policy and used when deciding the suitability of an individual –

Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arising suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence.

5.4 The minimum age for vehicle proprietors be set at 18 years or over.

114 Film Classification Policy

Sarah White, Senior Licensing Officer attended to present the report and assist the Committee with their enquiries. The Committee heard that they were being asked to approve a policy which would allow the Licensing Committee to provide a rating for previously unrated films. It was intended that the films would be rated in accordance with the extensive guidance provided by the British Board of Film Classification (BBFC). The Committee were advised that the Council had never been requested to provide a rating in the past, but had received an enquiry about a potential request to provide a film rating, and it was therefore considered prudent to put in place a policy that allowed this to happen.

In response to an enquiry from Councillor Harris, Sarah confirmed that if a request to provide a film rating was received in the future, this would be dealt with by a Sub-Committee of the Licensing Committee which would be set up in the normal way. Members of the Sub-Committee would receive an Officers report on the film highlighting anything in the film considered relevant to the rating process, and they would then view

the film and provide a rating in accordance with the BBFC guidance. With regard to the operation of the Sub-Committee, Matthew Evans, Democratic Services Officer, confirmed that Members of the Licensing Committee who were not on the Sub-Committee would be able to attend the meeting in order to gain experience of the process and in order to facilitate the future rating of films.

Councillor Young declared a non-pecuniary interest in this item as his partner worked at the Curzon cinema in Colchester. With regard to the proposed policy, he counselled caution by the Licensing Authority when considering film ratings, and cited examples of a film which had, in his opinion, been over zealously restricted by other Local Authorities in the past. In addressing these concerns, Jon Ruder confirmed that any rating to be undertaken would be supported by a detailed Officers report and the comprehensive guidance issued by the BBFC which had been developed over a number of years. Jon assured the Committee that he would look into training that may be available for them prior to any rating being carried out.

Councillor Hogg enquired whether there was a right of appeal of any decision taken by the Sub-Committee if the applicant was not satisfied with a rating given to a film. Sarah White confirmed that each case would be considered on its own merits, and there was no right of appeal of any rating decision taken by the Sub-Committee apart from applying to Judicially Review the decision.

RESOLVED that the draft policy and procedure be approved as part of the Licensing Act 2003 policy subject to public consultation.

115 Licensing Act 2003 Statement of Licensing Policy - Approval for Consultation Purposes

Jon Ruder, Licensing and Food Safety Manager, attended to present the report and assist the Committee with their enquiries. The Committee heard that it was a statutory requirement that the Statement of Licensing Policy under the Licensing Act 2003 was reviewed every five years and that a new Policy was due to be implemented on 1 January 2021. Given the current circumstances, the decision had been taken to carry out a 'light touch' review of the existing Policy, and Jon highlighted some of the changes that had been made to include reference to the Colchester Business Improvement District (BID), and an improved monitoring system adopted by the Pub Watch Group. He confirmed that some additions had also been made to the policy to help address child sexual exploitation, working to prevent terrorism and the promotion of equality and diversity. The proposed Policy also referenced tax and right to work checks and the expectation placed on businesses with regard to controlling litter outside their premises. Finally, the Policy had been updated to include additional information about designated premises supervisors, and what was expected of businesses to address some of the issues that had been experienced. The Committee heard that following a period of consultation, the draft Policy would be referred back to them with a request that it be recommended to Council for adoption, and that the Policy would be reviewed in much

more detail over the coming year.

Councillor Oxford queried whether or not the issue of tables and chairs permits taking up too much space on the pavement was addressed within the proposed Policy, and Jon Ruder confirmed that although tables and chairs permits were mentioned in the proposed draft Policy, they were dealt with under their own separate regime, and this regime addressed the concerns raised. Jon requested that Members contact him direct if they were aware of any problems, and he would deal with these.

Councillor Buston commented that the review of the Statement of Licensing Policy was one of the most significant pieces of work undertaken by the Committee, and the Policy itself was a continual work in progress which required constant revision. He stated that the Policy document underpinned every decision taken by the Committee, and affirmed that the overriding purpose of the Policy was to ensure public protection.

Councillor Harris enquired as to the extent of the proposed consultation, and Jon Ruder confirmed that the proposed draft Statement of Licensing Policy would be circulated among all local businesses, together with the BID and all the responsible authorities, Colchester Borough Council and Parish Councillors, and notification of the consultation would also be placed on Colchester Borough Council's website. Councillor Harris requested clarification of the acronym "DISC" was that was referred to in the draft document, and expressed his pleasure that littering had not been included in the draft Policy. He also noted that elements of the separate Sexual Entertainment Venue Policy had now been incorporated into the Statement of Licensing Policy, and Jon Ruder confirmed that this was to ensure that the overlapping elements of the two regimes were adequately linked in Policy. Sarah White added that it was only a requirement for a premises to obtain a Sex Establishment Licence if they carried out sexual entertainment on more than twelve occasions per year in a licensed premises, and it was therefore important that the Policy was clear on this point.

RESOLVED That the draft Statement of Licensing Policy be approved for consultation purposes.

116 Licensing Committee Work Programme 2020-2021

Matthew Evans, Democratic Services Officer, introduced the work programme 2020-2021.

RESOLVED that the contents of the work programme be noted.