

LICENSING COMMITTEE

22 JULY 2009

Present :- Councillor Barrie Cook (Chairman)
Councillors John Bouckley, Helen Chuah,
Nick Cope, Wyn Foster, Christopher Garnett,
Mike Hogg, Michael Lilley, Ann Quarrie and
Laura Sykes

3. Minutes

The minutes of the meeting held on 11 March 2009 were confirmed as a correct record.

4. Penalty Points Scheme

The Monitoring Officer submitted a report providing the Licensing Committee with an update on the legality of the Penalty Point Scheme following the concerns raised at the last meeting of the Committee on 11 March 2009. These concerns related to the legal status of the scheme and whether it introduced any element or possibility of double jeopardy or double punishment for the licence holder in respect of any offences committed.

Having considered all the evidence available the Monitoring Officer concluded that the Penalty Point Scheme was legally sound and was an appropriate method of determining whether a driver was a fit and proper person throughout the life of their licence. Penalty point schemes were used by many licensing authorities to manage driver/operator behaviour. It was acknowledged that there was potential for a driver to receive a conviction and separately penalty points on his driver's/operator's licence and therefore there may be perceived to be an element of double punishment. However, the primary and underlying duty of the authority was to ensure the safety of the travelling public and this took priority over all other considerations. Any driver who was unhappy with the penalty point scheme could appeal their conditions of licence to the Magistrates' Court. The Scheme was in line with the guidance in the Department of Transport's Best Practise Guide which stated that "the aim of local authority licensing of the taxi and PHV trades is to protect the public" and "well directed enforcement activity by the licensing authority benefits not only the public but also the responsible people in the taxi and PHV trades".

RESOLVED that the Monitoring Officer's conclusion that the Penalty Point Scheme was legally sound and was an appropriate method of determining whether a driver was a fit and proper person throughout the life of their licence

be noted.

5. Response to Home Office Consultation document Safe.Sensible.Social. Selling Alcohol Responsibly

The Head of Environmental and Protective Services submitted a report detailing the proposed response to the Home Office consultation document seeking views on a new code of practice for alcohol retailers entitled “Safe. Sensible. Social. Selling Alcohol Responsibly”. The Committee expressed its concern regarding Question 17 and the proposal to enable licensing authorities to add discretionary conditions to groups of two or more premises where it believed that this was necessary and proportionate to address issues such as nuisance and disorder. The Committee was concerned that this would preclude it being able to deal with a single premises and requested that the response be amended to stress that the Committee wished to have the power to call for a review of a premises licence on the same terms as was granted under the Gambling Act 2005. The Committee added that with the minor amendments they fully support the Licensing Manager’s comments.

RESOLVED that

(i) The Head of Legal Services and the Licensing Manager be requested to amend the response at Question 17 to reflect the Committee’s wish that it be granted the power to call for the review of a single premises licence and that the response, as amended, be submitted to the Home Office.

(ii) The Licensing Manager and his team be thanked for their work in preparing this response.

Councillor Laura Sykes (in respect of her membership of Stanway Parish Council) declared a personal interest in Minute No. 5 pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Helen Chuah (in respect of her role as trustee of St. Anne’s Community Centre.) declared a personal interest in Minute No. 5 pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Christopher Garnett (in respect of his membership of Langham Parish Council) declared a personal interest in Minute No. 5 pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Nick Cope (in respect of the fact that up until recently he was employed by the Home Office.) declared a personal interest in Minute No. 5 pursuant to the provisions of Meetings General Procedure Rule 7 (3)

Councillor Barrie Cook and Councillor Mike Hogg (in respect of their roles as trustees of St. Anne's Community Centre.) declared a personal interest in Minute No. 5 pursuant to the provisions of Meetings General Procedure Rule 7(3)

6. Response to Department for Transport Consultation on Best Practice Guidance for Taxi & Private Hire Vehicle Licensing.

The Committee considered a report by the Head of Environmental and Protective Services detailing the proposed response to the Department for Transport's consultation document on the revised Best Practice Guidance for Taxi and Private Hire Vehicle Licensing.

The Licensing Manager highlighted that under the proposed new guidance, drivers would need to satisfy the requirements of a Group 2 medical fitness examination. At the current time drivers only had to comply with Group 1 fitness requirements which were far less stringent and there was concern that a number of existing licensed drivers may not be able to comply. The Licensing Manager expressed his concern over the increased work load that the proposed guidance would be likely to create.

In response to questions the Licensing Manager outlined the situation with regard to the licensing of stretch limousines. Members were concerned about the requirements and safety of some stretch limousines and their drivers particularly having regard to their increasing popularity. The Licensing Manager explained that stretch limousines must either be licensed as a private hire vehicle (PHV) or with the Traffic Commissioners as a public service vehicle (PSV). If it was licensed as a PHV it could only be licensed for a maximum of 8 passengers and he expressed his concern that there is a hard core of stretched limousine operators that operate unlicensed vehicles and also a growing number of 'novelty' vehicles such as ex army vehicles or ex fire engines being used for events such as 'prom' nights, where neither the driver or vehicle were licensed and therefore were not subject to any vetting procedure with regards to safety or suitability.

The Licensing Manager advised that many of these novelty vehicles would not fall into either a PHV or PSV regime because of their construction or use and that the Council was only able to take enforcement action against vehicles that it licensed. The Licensing Team had tried in the past to work with the Police

and VOSA to inspect the safety of these vehicles and drivers but this had not been possible due to a lack of resources at various times.

RESOLVED that the response as outlined in the report be approved for submission to the Department of Transport.

7. Licensing Committee - Allocation of Dates

The Head of Environmental and Protective Services submitted a report seeking the Committee's views on the method of allocation of Councillors to the Licensing Act 2003 Sub-Committees. The report set out the background on this matter and explained that the number of Licensing Sub-Committee meetings being held had levelled out since the Act was first introduced and as a result not all members had had the chance to sit on a Sub-Committee hearing last year. Amendments to the rota had been made at the end of the last municipal year to address this problem but concern had been expressed by some members with regard to this practise. The report outlined the three proposed methods for the allocation of members to Sub-Committee meetings and the problems inherent with each one.

RESOLVED that option one, the allocation of members to the Sub-Committee on a rota basis, be agreed.