

## **Licensing Committee – Meeting held on Wednesday, 24th February, 2010.**

**Present:-** Councillors Davis (Chair), Dodds, Jenkins, Long, Maclsaac, Rasib, Qureshi and Shine.

**Also present under Rule 30:-** Councillors P Choudhry and Matloob.

### **PART 1**

#### **17. Apologies for absence**

Apologies for absence were received from Councillors Bains, Chohan and Dale-Gough.

#### **18. Declaration of Interest**

Councillor Davis declared a personal interest as a member of his family worked for Burnham Cab.

Councillor Maclsaac declared a personal interest as a frequent user of the taxi service.

#### **19. Minutes of the Last Meeting held on 4 November 2009**

The Minutes of the meeting held on 4<sup>th</sup> November, 2009 were approved as a correct record.

#### **20. Review of Delegated Powers**

Mr Sims, Licensing Manager stated that a review of delegated powers had been carried out and Members were being requested for powers to be delegated from the Licensing Committee to the Assistant Director for Public Protection in respect of private hire and hackney carriage licensing matters. It was noted that the matter was originally put before the Licensing Committee in September 2009, where Members had raised a number of areas for clarification. The Licensing Manager reminded the Committee that currently where any new applicants with a private hire or hackney carriage driver licence were deemed not to be "fit or proper under the Act or in accordance with the current policy on convictions and cautions the applicant could lodge an appeal and have their application heard by Licensing Sub-Committee. Likewise, where a current licence holder had received any caution conviction or sentence for offences, or where there was a specific matter of misconduct and in the opinion of Licensing Officers, the licensee was deemed not to be fit and proper the matter was referred to a Licensing Sub-Committee.

The current Constitution delegated responsibilities for the purposes of private hire and hackney carriage licensing under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to both the Licensing Committee, Licensing Sub-Committee and to Officers. However, the specific powers for Officers in relation to the refusal to grant or renew

## Licensing Committee - 24.02.10

licences and for licences to be suspended or revoked were very limited and these lay primarily with the Licensing Committee and Licensing Sub-Committee.

Members were reminded of the current system, which included officers preparing a report to the Licensing Sub-Committee containing all the relevant information, evidence and fact. A hearing would then be arranged which required the attendance of a licensing officer, a democratic services officer and a legal officer. It was brought to Members attention that on occasions there had been some considerable time between the licensing officer preparing and submitting a report and the matter being heard by the Licensing Sub-Committee. The Licensing Manager stated that all referrals to the Licensing Sub-Committee and any subsequent appeals were time consuming and costly for the Licensing Team, and with the reduction of two staff within the team now even more so. It was proposed that delegating specific powers to Officers would reduce in the number of Sub-Committee meetings required and result in significant savings to the licensing budget, the member allowance claims, officer time in democratic and legal Services preparing for and attending meetings.

A benchmarking exercise had been conducted with twelve other local authorities including Wokingham, Reading, South Bucks, Royal Borough of Windsor and Maidenhead and Bracknell Forest. It was highlighted that the benchmarking exercise had revealed that most local authorities had introduced an officer delegation scheme similar to that being proposed.

Following concern expressed at the previous meeting with regard to the number of requests for deferral made by applicants in respect of their cases before the Sub-Committee, the Licensing Manager stated that following discussion with Legal Services and Democratic Services a clear defined policy with regard to requests for deferral could not be prepared. It was explained that each case should be dealt with on its own individual merit taking into consideration the applicant's reason for not attending the hearing, the reason for requesting an adjournment and the fact that the applicant had just failed to appear with no warning.

In summary, the Licensing Manager stated that the recommendations being proposed would not in any manner be detrimental to any new applicant or current license holder. It was further submitted that the proposals would provide an opportunity for matters to be dealt with in a far quicker and expeditious manner and as always providing the right of appeal to any decision made.

A number of representatives from the trade addressed Members of the Committee with regard to their concerns in relation to the proposed delegation of powers and included:

- (a) Mr Badial, representing Slough Taxi Drivers union, stated that no consultation had taken place with any members of the trade. It was submitted that elected members who represented the community

## Licensing Committee - 24.02.10

should continue to make decisions and that the current system was operating fine. Furthermore no evidence had been presented that the current system was not working and in his opinion the introduction of the delegated powers would result in an increase in miscarriages of justice.

- (b) Mr S Khan, also representing Slough Taxi Drivers Union stated that the current system was working efficiently and that drivers were happy with elected Members making a decision.
- (c) Mr L Khan, representing Slough Hackney Carriage Association stated that the introduction of delegated powers would result in officers' having to make a subjective decision as to who was a 'fit and proper' person which was not a decision Officers of the Council should be responsible for.
- (d) Mr Ashraf, representing Slough Private Hire Drivers Association reiterated that no consultation had been sought with the trade and that the new system would be open to abuse by individuals. Mr Ashraf added that drivers had confidence in the current system and that it was essential for any proposed changes to have the support from members of the trade.

Councillors P Choudhry and Matloob also addressed their concerns to the Committee stating that the current system was working efficiently and that the Licensing Sub-Committee was perceived as an impartial body to which both the licensing officer and appellant could present their information. It was submitted that the current system was perceived as fair. Concern was expressed that no consultation had been carried out with regard to the proposed measures. Councillor Choudhry stated that in his opinion, a tier of justice was being taken away from individuals, who would then have to appeal direct to the Magistrates Court if they were not happy with the Officer's decision.

In the ensuing discussion a number of points were raised both in favour and against the proposed delegation of powers and included:

- A Member expressed concern that substantive powers were being delegated to officers and that it was elected Members responsibility to assist the public and therefore Members should not abdicate their responsibility in making these decisions.
- A number of Members stated that the proposed delegated powers would result in a more efficient system which would not only protect the public but also the drivers.
- A Member stated that it was important for there to be third party involvement from the councillors as the Licensing Officers needed to distance themselves from making the decision as they were not only ascertaining all the information in the first instance but then also being required to make a decision.
- A Member clarified that the hearings that took place with the Licensing Officers would also have the attendance of a legal officer and that all discussions and outcomes would be properly documented.

## Licensing Committee - 24.02.10

### Recommended to Council:-

- (a) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage driver's licence in any of but not limited to the following areas:
- where a current driver has been found guilty of an offence and has been imprisoned
  - where a current driver has been charged with an offence and has been remanded in police custody
  - conviction for dishonesty, indecency, violence, major traffic offences drunkenness with a motor vehicle, drugs and/or a combination of the listed offences
  - where it is found that the licensee does not have appropriate valid insurance
  - failing to comply with an officers' request/obstructing officers in the course of their duties
  - any other reasonable cause which includes, but is not limited to,
    - additional information disclosed on CRB check
    - information received from the chief police officer under separate cover
    - CCTV footage of incidents
    - Officers witnessing incidents, e.g. vehicles driving through red lights
    - Knowingly making a false declaration / statement during the application procedure.
- (b) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage vehicle license in any of but not limited to the following areas:
- where the vehicle is mechanically unfit to be a licensed vehicle and convey members of the public (defined via Certificate of Compliance or any other reason)
  - where there is no appropriate insurance in place
  - where the vehicle is visually unfit to be a licensed vehicle (suspension for a period of time to allow the licensee to repair or fix the problems).
- (c) Delegated powers to be given to the Assistant Director of Public Protection to refuse to grant a licence for any new applicant who fails to meet any of the criteria as detailed in the legislation or Council policies, including but not limited to:
- convictions (spent or not spent)
  - relevant cautions
  - additional information/separate cover notes received on/after the CRB

## Licensing Committee - 24.02.10

- driving license history – points etc
  - a new application from a person who has recently had their license revoked by this or another licensing authority (including the Public carriage Office)
  - Knowingly makes a false declaration / statement during the application procedure
- (d) Delegated powers to be given to the Assistant Director of Public Protection to grant a licence with specific conditions attached or attach conditions to a licence which has already been granted, for example but not limited to:
- annual CRB for three years
  - driver to attend the licensing office on a monthly basis to provide original evidence of insurance, driving license etc
  - existing driver to undertake and pass DSA driving test within three months
- (e) That power to suspend or revoke a taxi or private hire drivers licence with immediate effect – the principle power to remain with the Licensing Manager and the Chair of the Licensing Committee. In the absence of the Licensing Manager this power should be delegated to any Senior Licensing Officer or Licensing Officer in consultation with the Chair. In the absence of the Chair, this power should be delegated to the Vice-Chair and in his/her absence to any of the three nominated Chairs of the Licensing Sub-Committee.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 8.00 pm)