

Time commenced : 6.00pm
Time finished : 7.30pm

LICENSING AND APPEALS COMMITTEE 13 OCTOBER 2004

Present: Councillor Jones (in the Chair)
Councillors Berry, Brown, Bolton, Hird, Hussain, Jackman,
Jackson, MacDonald, Redfern, Rehman and Richards

19/04 Apologies for Absence

An apology for absence was received by Councillor Liversedge.

20/04 Minutes of Previous Meetings

The minutes of the meeting held on 7 September 2004 were approved as a correct record and signed by the Chair subject to the inclusion of Councillor Berry's attendance and Councillor MacDonald apologies.

21/04 Late Items to be Introduced by the Chair

Councillor Jones introduced a late item relating to the Liquor Licensing Policy. It was suggested that if it were not possible to adopt the Policy by the 24 November 2004, full Council would have to delegate powers to the Special Purposes Committee to approve the Liquor Licensing Policy at the end of the consultation.

Resolved to establish a Licensing and Appeals Committee members working party consisting of the Chair, Vice Chair and an opposition spokesperson, to examine the Licensing Committee structure and make recommendations to full Council.

22/04 Declarations of Interest

There were no declarations of interest.

23/04 Taxi Licensing Enforcement Protocol

The Committee considered a report from the Director of Corporate Services, which set out the Taxi Licensing Enforcement Protocol and comments of Hackney Carriage and Private Hire trade representatives.

It was reported that the Consultation Exercise for the protocol had taken place during July 2004 and comments had been received from three organisations. It was noted that the only part of the protocol that was new was the appeals procedure and the rest was deemed to be normal within enforcement laws. It was reported that a meeting had

been held with the new DATOA committee and a letter received from DATOA was circulated.

Councillor Hussain welcomed the document as he considered it more explicit than the protocols the Government had issued. He asked what would be done if information from the drivers could not be obtained.

John Tomlinson responded that the protocol could not be tightened to specify every element as it would leave no discretion for the Enforcement Officers. It was noted that visiting drivers at home would only be in extreme circumstances for example if a vehicle was considered dangerous. It was reported that only one visit to a drivers home had taken place in the last 12 months, where the vehicle had been deemed to be unsafe. If a problem occurred with a vehicle at night, the Enforcement Officers would serve notice on the driver and visit them in the morning or ask them to report to base.

Councillors raised concerns that allegations were not being discussed or checked out before enforcement was taking place. It was considered that thorough investigation would also be beneficial for Enforcement Officers so they are not seen as harassing drivers.

Councillor Hussain considered that a note should be left for the drivers and asked to make contact with base.

John Tomlinson responded that he shared the views that home visits should not be carried out unless absolutely necessary and would not be carried out at night time if possible.

Councillor Hussain raised concerns that that if a dispute arose between the licence holder and the testing station over failure of a vehicle the license holder could take the vehicle to a second testing station for a re-test but would be charged in full for the test. He considered that the second station should be looking at the area of dispute and not re-testing the whole vehicle.

Olu Idowu responded that the second test should be completely independent and so therefore the defect could not be pointed out to the tester.

John Tomlinson considered that it would put the testing station under pressure if they were asked just to look at one part of the vehicle that had failed.

Councillor Hussain considered that the vehicle proprietor should only be charged for a re-test not for a full test.

It was suggested to review the protocol and the appeals procedure in six months time to see how many appeals had been received and to

review how the protocol was working as a whole.

It was reported that if a spot check was carried out at the roadside and it was found that the vehicle was not fit, the enforcement officers would have no alternative other than to book the vehicle in for a full check. It was considered that officers must suspend driving work if there was a serious problem with the vehicle.

Councillor Hussain considered that if minor concerns were picked up, the enforcement officers should issue a ticket and then ask the driver to visit the station within seven days and not expect them to go to Celtic House the next day.

Resolved to approve the Enforcement Protocol subject to a six month review of the appeals procedure

24/04 Licensing of Sex Establishments – Procedure and Policy

The Committee considered a report from the Director of Corporate Services that set out proposals for a procedure and policy that the Council could adopt when dealing with sex establishment applications.

Michael Kay reported that following the recent decision of Licensing Sub Committee B to approve the granting of a sex establishment license, Officers were asked to devise a policy to control the number of sex establishments within the City of Derby.

Resolved

- **to adopt the procedure for considering applications**
- **to adopt the policy for determining applications**
- **to refer the policy to full Council for approval.**

25/04 Taxi Licensing Section – Budget Contingency Proposals

The Committee considered a report from the Director of Corporate Services that sought approval for the use of an ongoing annual carry over sum to be used as a contingency balance.

It was reported that the Taxi Licensing section budget was self financing and income was derived from fees received from license fees and charges. It was reported that the licensing budget was currently estimated by licensing managers that predicted the levels of licensing income prior to the start of each financial year in April. It was proposed that a £10,000 “pot” should be maintained throughout the

year to provide a contingency against fluctuations in income. This would amount to less than 5% of the sections budget. It was noted that any amount in excess of £10,000 remaining at the end of the financial year would be put back into the Licensing section for example to reduce licence fees or improving IT systems.

Resolved

- **to note the report**
- **to approve the use of an ongoing annual carry over sum to be used as a contingency balance.**

26/04 Liquor Licensing

Michael Kay gave a presentation updating Committee members on the Liquor Licensing Act 2003. He presented the key features of the Act but reminded members that there would be training on the Liquor Licensing on 23 November 2004. He set out the main key features of legislation and its objectives. He reported that the workload implications were being considered and the aim was to forecast how many applications would be received and when they would be received. It was proposed that the legislation could be implemented through a phase scheme, possibly over area panel areas. He informed the members of the conditions and powers that they would have as members. He also outlined the financial implications that included

- difficulties establishing final information due to budget
- delays in publication of guidance
- fees levels not being set

Councillor Jackman asked if the Council were hoping that the legislation would be self financing.

The Director of Corporate Services responded that the Council were preparing for the budget process but estimates would be working on a deficit which could potentially have a knock on effect onto council tax. Councillor Hussain asked if the policy could become self-financing by setting fee levels. Michael Kay responded that the Council did not have any influence over the fee levels, as they were set centrally.

It was considered that the implementation of the regime would involve a significant amount of work including for members.

Resolved to note the presentation.

MINUTES END