LICENSING COMMITTEE AGENDA



Wednesday, 20 July 2010 at 2.00 pm

in Committee Room B, Civic Centre, Hartlepool

MEMBERS: LICENSING COMMITTEE:

Councillors Barclay, Brash, Fleet, Fleming, Griffin, Hall, Jackson, Lawton, A Lilley, G Lilley, Morris, Shields, Sutheran, Tempest and Wells.

- 1. APOLOGIES FOR ABSENCE
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS
- 3. MINUTES
 - 3.1 To confirm the minutes of the meeting held on 13 April 2011
- 4. ITEMS REQUIRING DECISION
 - 4.1 Licensing Committee Sub Committee Memberships Assistant Chief Executive
 - 4.2 Hackney Carriage and Private Hire Licensing Assistant Director, Community Safety and Protection
- 5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

13 April 2011

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

Present:

Councillor George Morris (In the Chair)

Councillors Reuben Atkinson, Alan Barclay, Jonathan Brash, Mary Fleet,

Sheila Griffin, Ged Hall, Trisha Lawton and Frances London

Officers: Ian Harrison, Principal Trading Standards & Licensing Officer

Tony Macnab, Solicitor

Sarah Harrison, Democratic Services Officer

Also present: Colin Sawtell

20. Apologies for Absence

Councillors Jackson, Rogan and Sutheran.

21. Declarations of interest by members

None.

22. Street Pastor Scheme

Colin Sawtell from the Elim Pentecostal Church attended to inform Members about the Street Pastor Scheme which was to commence shortly to assist members of the public who were under the influence of alcohol and needed help in getting home at night from the town centre of Hartlepool. The scheme was based in Whitby Street. There were currently a number of volunteers aged between 18 and 77 who were undergoing training with the police, Safer Hartlepool Partnership and licensing authorities and were CRB checked in order to assist with the scheme.

Members were wholly supportive of this scheme which would also direct people towards counselling and further support if required. Mr Sawtell stated that volunteers were still required. The volunteers would be wearing high visibility jackets and team leaders would have radios in order to coordinate the help.

The Chair thanked Mr Sawtell for attending the meeting.

23. Confirmation of the minutes of the meeting held on 19 January 2011

Confirmed.

Matters Arising

<u>Sex Entertainment Venues</u> - A member asked why the Committee had made the decision in relation to recommending the prohibition of live sex shows, peep shows and any live entertainment which depicted non simulated sexual acts between two or more people. He was informed that this decision was not entirely a moralistic judgement but rather had been made on what was considered to be the best interests of the residents of Hartlepool. The member queried whether the Committee could make decisions on this basis rather than licensing reason. He was reminded that each application would be taken on its own merits.

24. Proposed Amendment to Hackney Carriage Tariffs - Principal Trading Standards & Licensing Officer

Purpose of Report

To consider an amendment to the current tariffs for licensed hackney carriage vehicles.

Issues for Consideration

It had been proposed by the Hackney Carriage/Private Hire Vehicle Owners Working Group that there should be no general increase in hackney carriage fares with the exception of a surcharge of £1.50 for vehicles carrying five or more passengers. This surcharge was already in place for purpose built wheelchair accessible vehicles when they carry five or more passengers so the change would currently only affect two minibus type vehicles in the town. This change would not affect journeys to airports and other locations outside Hartlepool. It was clarified for Members that this would not lead to drivers trying to squeeze in extra passengers in order to obtain the surcharge as it would be an offence to do so. The surcharge would be clearly advertised in affected vehicles so as not to cause confusion for passengers.

Decision

Members approved the adoption of a £1.50 surcharge for hackney carriage vehicles when carrying five or more passengers.

25. House to House Collections - Principal Trading Standards & Licensing Officer

Purpose of Report

To seek members approval for the adoption of a policy to control the licensing of charitable house to house collections in Hartlepool.

Issues for Consideration

Members were reminded that a licence was required to promote a collection for charitable purposes although commercial collections did not require such a licence. Residents in Hartlepool regularly receive requests for donations of clothing and other items in order to benefit good causes or charities. Residents leave bags of donations outside their homes which are collected by professional collection companies and transported to regional centres where they are sorted and sold for a profit. The profit or more usually a proportion of the profit (varying from 10% to 90%), is then donated to the good cause or charity with the remainder retained to cover collection costs. Members were reminded that the House Collections Act 1939 states that a licensing authority should grant a licence for a collection unless it appears to the authority that:-

 The total amount likely to be applied for charitable purposes is inadequate in proportion to the value of proceeds likely to be received

or

 The remuneration retained out of the proceeds of the collection is excessive

Some neighbouring Authorities have policies in place to maximise charitable benefit; e.g. to require the good cause to receive a minimum of the proceeds.

Members discussed whether the setting of a higher tariff would reduce the number of charity bags that residents received and queried whether charities could make their own collections as opposed to using companies to do so on their behalf. It was agreed that it was confusing as some bags had registered charity numbers printed on them whilst others had company reference numbers so residents may be unaware whether the goods were going direct to the charity or to a collection company. Discussion took place as to whether it was better to have a large number of charity bags distributed so that residents could make a choice as to which charities they supported, or whether to limit these which potentially may make the disposal of goods more difficult for residents.

It was clarified for Members that Home Office exemptions applied to certain charities including the Salvation Army and British Heart Foundation.

Decision

Members agreed to adopt a policy whereby:-

- That a minimum of 75% of the proceeds of the goods collected will be donated to the good cause OR
- ii) That, where the value of the donation is less than 75% of the proceeds, the collection bag or collection leaflet clearly and prominently states the percentage to be donated

26. Criminal Records Checks and the Relevance of Previous Criminal Convictions - Principal Trading Standards & Licensing Officer

Purpose of Report

To seek Members' approval for the amendment of the current Hackney Carriage and Private Hire Licensing Policy to reflect a change in the rules concerning the disclosure of criminal records

To seek Members' approval for the adoption of a new policy relating to the relevance of previous criminal convictions for taxi drivers

Issues for Consideration

The current hackney carriage and private hire licensing policy requires applicants to provide the authority with an Enhanced Disdosure from the Criminal Records Bureau (CRB). The CRB has now indicated that licensing authorities will no longer be permitted to apply for enhanced disdosures for taxi drivers unless the applicant will be working with children or vulnerable adults as part of a specific contract. The only disclosure available for taxi drivers not working under contract would be the standard CRB check which contains details of convictions, cautions, warnings or reprimands but no additional information from the Police or details of whether the applicant was barred from working with children or vulnerable adults. This change to the rules by the CRB applied to every licensing authority and could result in important information not being disclosed prior to a licence being granted. It was therefore proposed that the policy be amended so as to require future applicants to provide a Standard CRB disclosure.

Members expressed serious concern that the requirement for a Standard Disclosure would put the people of Hartlepool at risk but were reminded that this was now the law and not to adopt the requirement would be a breach of this. Members voted on whether to accept the amendment to the current hackney carriage and private hire licensing policy so as to require applicants to provide Standard Criminal Record Bureau disclosures. This was accepted albeit reluctantly by those present apart from Councillors Brash and London who voted against accepting the policy.

Members then discussed the adoption of a new policy in relation to the relevance of previous criminal convictions for taxi drivers. It was suggested by the Principal Trading Standards and Licensing Officer that some convictions which had taken place many years previously were not as relevant as recent offences but the current policy required that these applicants were brought before committee. Members made minor changes to the list of relevant offences which were appended to the report.

Decision

Members:-

- Agreed to the amendment of the current hackney carriage and private hire licensing policy so as to require applicants to provide Standard Criminal Records Bureau disdosures
- II. Instructed the Public Protection Manager to make representations to the Government expressing the Committee's outrage at the recent change to rules concerning Enhanced Criminal Records Bureau disclosures and urging a return to the previous position as soon as possible
- III. Agreed the adoption of new guidelines in relation to the relevance of previous criminal convictions as detailed in Appendix I to the report with the addition of DVLA Codes CD80 and CD90 – causing death by careless or inconsiderate driving
- IV. Agreed to the amendment of the protocol detailing which previous convictions should be brought to a licensing sub committee for consideration as detailed in Appendix III with the addition of Drugs Offences involving motor vehicles on all occasions and drugs offences without vehicles within seven years
- V. Agreed that any licence applications received may be approved by authorised officers, without reference to licensing committee, if there are no criminal convictions that, by reference to the adoption of recommendation II above, were not required to be disclosed to the committee

27. Appreciation

The Chair thanked the Committee for their efforts over the past year and also Councillor London for her input on the Committee as she was not standing in the forthcoming elections. The Chair also thanked the Democratic Services Officer as she was leaving the Authority.

The meeting concluded at 3.41 pm

CHAIR

Report of: Assistant Chief Executive

Subject: LICENSING COMMITTEE SUB COMMITTEE

MEMBERSHIPS

1. PURPOSE OF REPORT

1.1 To re-appoint and fill vacancies in the Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees.

2. BACKGROUND

- 2.1 Following the recent Annual Council and changes to the membership of the Licensing Committee the memberships of the sub committee need to be reappointed. There are five newly appointed members to the Licensing Committee, Councillors Fleming, A Lilley, Shields, Tempest and Wells.
- 2.2 There are five Licensing Act Sub Committees each consisting of three members and three Hackney Carriage and Private Hire Sub Committees each of five members.
- 2.3 Following a discussion with the Chair, the following proposed sub committee memberships are set out for Members consideration / discussion.

Licensing Act Sub Committees: -

- 1 Councillors Morris (Ch.), Fleming and Barday
- 2 Councillors Lawton (Ch.), Tempest and Wells
- 3 Councillors Brash (Ch.), G Lilley and Shields
- 4 Councillors Hall (Ch.), Fleet and Sutheran
- 5 Councillors Griffin (Ch.), Jackson and A Lilley

Hackney Carriage and Private Hire Licensing Sub Committees: -

- 1 Councillors Morris (Ch.), Jackson, Sutheran, Fleet and Hall
- 2 Councillors Lawton (Ch.), Fleming, Tempest, Shields and A Lilley
- 3 Councillors Brash (Ch.), Barclay, Griffin, G Lilley and Wells

While it is accepted that political balance is difficult to maintain on sub committees of three, there should at least be two parties represented on each sub committee. The proposals set out do meet that requirement.

3. LEGAL CONSIDERATIONS

3.1 As new members to the Licensing Committee, Councillors Fleming, A Lilley, Shields, Tempest and Wells are required to undergo appropriate training before they can be involved in the Licensing Act Sub Committees. I am advised that this has taken place.

4. RECOMMENDATION

The Committee is requested to consider the Sub Committee memberships set out above.

5. REASONS FOR RECOMMENDATIONS

Without the vacancies being filled the Licensing Sub Committees cannot operate properly as three members need to be present for a Licensing Act hearing to proceed. The situation is similar for Hackney Carriage Sub Committees where a quorum of three is required.

6. BACKGROUND PAPERS

Licensing Act Committee Minutes 7 January 2005 Licensing Act Committee Minutes 27 July 2005 Licensing Committee Minutes 15 March 2006 Licensing Committee Minutes 2 July 2008 Licensing Committee Minutes 29 July 2009

7. CONTACT OFFICER

Denise Wimpenny, Principal Democratic Services Officer 01429 523193 denise.wimpenny@hartlepool.gov.uk

Report of: Assistant Director, Community Safety & Protection

Subject: HACKNEY CARRIAGE & PRIVATE HIRE LICENSING

1. PURPOSE OF REPORT

1.1 To inform Members of a significant decline In applications for private hire and hackney carriage drivers licences.

1.2 To update Members on the current legal position regarding Criminal Records Bureau disclosures and to seek Members approval for an amendment to the hackney carriage and private hire licensing policy.

2. BACKGROUND

Driving Standards Agency Taxi Test

- 2.1 At a meeting of this committee on 19th January 2011 Members were asked to consider whether new applicants for hackney carriage and private hire drivers licences should be required to pass the Driving Standards Agency Taxi Test.
- 2.2 Members were advised that the DSA test was already a requirement in other Tees Valley licensing areas and was a common feature amongst licensing policies across the country. Tests currently cost £79 and take the form of a practical driving test with theory examining the applicant's ability to transport fare paying passengers in safety and comfort.
- 2.3 Members were informed that a consultation exercise had been carried out with the taxi trade and that 54 responses were received from the 650 drivers, owners and operators that had been contacted. A copy of the questionnaire is attached as **Appendix I**.
- 2.4 The results of the consultation highlighted that:
 - a) 33 respondents believed that new driver applicants should be required to pass the DSA test. 18 believed they should not.
 - b) When asked what the impact would be if there were fewer licensed drivers, 38 thought it would result in a better wage for existing drivers whilst 14 thought it would mean there would not be enough drivers to meet public demand.
 - c) 33 respondents thought there were currently too many licensed hackney carriage vehicles. Only one thought there were too few with 17 feeling the number was 'about right'.

- 2.5 Hartlepool currently has 327 licensed vehicles and 587 licensed drivers.
- 2.6 Members determined to agree to an amendment of the hackney carriage and private hire licensing policy so as to require all new driver applicants to pass the DSA Taxi Test with effect from 1st April 2011.
- 2.7 This requirement was subsequently introduced in April but since this time only one new application has been received compared to 38 the previous year (of which 27 went on to obtain a licence).
- 2.8 This is a significant decline that could, if it continues, lead to an overall reduction in the number of licensed drivers in Hartlepool.
- 2.9 Members may wish to note that the introduction of the DSA test coincided with the withdrawal of much of the grant funding that had been available to help the unemployed get back into work.

Enhanced CRB Disclosures

- 2.10 At a meeting of this committee on 13th April 2011 Members were advised that the Criminal Records Bureau (CRB) had issued instructions to local authorities indicating that drivers of hackney carriage and private hire vehicles were not eligible for enhanced CRB checks.
- 2.11 This was contrary to the approach taken by every licensing authority in the country which had, until then, requested enhanced CRB checks for drivers as a matter of routine.
- 2.12 The CRB indicated that taxi drivers were only eligible for 'Standard' type CRB's which contains details of convictions, cautions, reprimands and warnings but does not include additional information provided by the Police or reveal whether the applicant is barred from working with children or vulnerable adults.
- 2.13 As the council's licensing policy stated that taxi licences would only be issued to drivers who had obtained Enhanced CRB disdosures Members reluctantly agreed to amend the policy so as to comply with the new instructions received from the CRB.
- 2.14 Officers were instructed to raise the issue with the Criminal Records Bureau and express the committee's outrage at their decision to deny licensing committee's vital information about those they were being asked to licence.

3. ISSUES

Driving Standards Agency Taxi Test

3.1 Since the introduction of the DSA Taxi Test in April 2011 the number of applications for new licences has fallen dramatically – from 38 to 1.

- 3.2 It is not possible to say that the introduction of the test has been solely responsible for this decline as it coincided with the loss of Government grant funding that was in part being used to subsidise the costs of new applications.
- 3.3 Enquiries have been made with neighbouring authorities (who also have the DSA test) and they have reported no significant reduction in applications being made to them
- 3.4 Local taxi operators have expressed concern that a fall in the number of new drivers will have a detrimental impact on their ability to operate their companies in the future.
- 3.5 The results of a consultation exercise carried out prior to the introduction of the DSA test indicated that 38 respondents believed a fall in the number of drivers would lead to a better living wage for those who remained. 14 believed it would result in there not being enough drivers to meet the needs of the travelling public.
- 3.6 Members are asked to consider, in the light of the factors detailed above, whether the DSA taxi test should continue to be a requirement of the licensing policy.
- 3.7 It is not possible to say with any certainty that the DSA test has been solely responsible for the decline in applications but there is no doubt that it will not have helped.
- 3.8 Withdrawing the requirement would result in Hartlepool being the 'odd one out' in the Tees Valley area and Members have previously expressed concern that Hartlepool should not be seen as an 'easy touch' for those applicants finding it too difficult to obtain a licence elsewhere.
- 3.9 Local taxi operators believe that a sustained decline could significantly effect their businesses and their ability to meet the demands of the travelling public. However, the results of the consultation exercise indicated a significant majority of respondents believed a reduction in the number of drivers would be a good thing meaning more work for those drivers who remained.
- 3.10 An alternative to withdrawing the requirement entirely could be to require an applicant to pass the DSA test within one year of obtaining their licence this approach is currently in place in Stockton.
- 3.11 Some operators have indicated that many drivers view taxi licensing as a short term opportunity and that, as the economy improves, they leave the trade as they find better paid work elsewhere. Operators are therefore reluctant to subsidise costs for new applicants who may leave them quickly. They have indicated however that they may be prepared to cover some of the DSA costs for those drivers who have demonstrated a commitment during their first year and who they could genuinely see as an 'investment'.

Enhanced CRB Disclosures

- 3.12 In April 2011, following the receipt of instructions from the Criminal Records Bureau, Hartlepool's taxi policy was amended so as to remove the requirement for new driver applicants to obtain an Enhanced CRB disclosure.
- 3.13 As instructed by Members, officers have written to the Criminal Records Bureau to express their outrage at the current position and the issue has also been referred to other national bodies that represent all local authority licensing bodies
- 3.14 There appears to be a universal agreement that the CRB's advice is detrimental to public safety and that there is a pressing need for the matter to be resolved.
- 3.15 Hartlepool has agreed to join with other local authorities in the North East to engage the services of a barrister to obtain a legal opinion on the matter.
- 3.16 Other legal opinions have already been obtained from across the country and, whilst there has been no evidence of any change of opinion or approach from the CRB, it would seem that change will become inevitable.
- 3.17 In order to be able to react to any change as soon as it occurs, Members are asked to approve a change to the licensing policy so as to require applicants to provide the highest level of CRB disclosure that is legally available. This would allow officers to require Enhanced checks as soon as the CRB change their advice. A failure to do so would result in a delay until the next meeting of the licensing committee.

4. RECOMMENDATIONS

- 4.1 That Members consider which of the following options should be implemented with regard to the Driving Standards Agency Taxi Test:
 - a) No action is required (i.e. the Driving Standards Agency Taxi Test remains as a requirement before any new drivers licence is issued)
 - b) The taxi licensing policy is amended so as to require new drivers to pass the Driving Standards Agency Taxi Test within one year of obtaining their licence
 - c) The requirement for new drivers to pass the Driving Standards Agency Taxi Test is removed from the taxi licensing policy.
- 4.2 That Members approve an amendment to the taxi licensing policy so as to require hackney carriage and private hire drivers and operators to produce the highest level of Criminal Records Bureau disclosure legally available.

Licensing Committee – 20 July 2011 REGENERATION & NEIGHBOURHOODS PUBLIC PROTECTION

Hanson House Lynn Street Hartlepool TS24 7BT

Tel: 01429 266522 Fax: 01429 523308 HARTLEPOOL BOROUGH COUNCIL

Your Ref:

Telephone Number: (01429) 523354

August 2010

Dear Sir/Madam

Hackney Carriage & Private Hire Licensing - Consultation

Hartlepool Borough Council is considering whether it should work towards harmonising its hackney carriage and private hire licensing policy with that of other licensing authorities in the Tees Valley region.

As part of this consideration the Council is consulting with licensed drivers, vehicle owners and private hire operators to establish what impact, if any, a change to the licensing policy might have on the licensed trade.

I would be obliged if you could answer the questions contained in the following document and send your replies to me at the above address no later than Friday 29th October 2010.

The issue will then be taken back to the Council's licensing committee early in 2011 where a decision will be taken on whether to progress the matter further.

I look forward to hearing from you.

Yours sincerely

Ian Harrison

Principal Trading Standards & Licensing Officer

HACKNEY CARRIAGE & PRIVATE HIRE LICENSING IN HARTLEPOOL



CONSULTATION 2010

Background

Hartlepool Borough Council currently licenses hackney carriage and private hire owners, vehicles and operators. The main purpose for doing this is to protect the travelling public.

This is largely achieved through the Council's licensing policy which details the rules and regulations that must be followed in order to obtain, and retain, a licence. Hartlepool's licensing policy has been in existence for many years but has become significantly different from those in neighbouring authorities who also have their own, unique policies.

As drivers and vehicles regularly travel from one area to another the Tees Valley area Councils have been looking at whether it would be appropriate to adopt a standardised policy that protected the public, and trade, in the same way and to the same degree.

There are some significant differences between how Hartlepool licenses its drivers and vehicles compared to other Tees Valley authorities.

Hartlepool Borough Council's licensing committee would like to know your views on whether moving towards a standardised policy would be a good idea and what, if anything, the impact would be on you. There is no suggestion at this time that the Tees Valley area would become one licensed area whereby vehicles and drivers could work across the entire region. This consultation is concerned only with the potential impact and benefits of working towards a standardised licensing policy for the regulation of the trade across the region.

This consultation document has been sent to all licensed drivers, vehicle owners and private hire operators in Hartlepool. The closing date for responses is Friday 29th October 2010 and responses should be made, in writing, to: -

The Licensing Team
Hartlepool Borough Council
Bryan Hanson House
Hanson Square
Hartlepool
TS24 9BT

or by e-mail to <u>licensing@hartlepool.gov.uk</u>

HACKNEY CARRIAGE & PRIVATE HIRE QUESTIONNAIRE 2010



Question 1.				
Which of the following best describes you: - (you may tick more than one				
box)	Hackney Carriage Driver			
	Private Hire Driver			
	Hackney Carriage Owner			
	Private Hire Vehicle Owner			
	Private Hire Operator			
	Other (please specify)			
Question 2.				
If you are a vehicle owner, how many vehicles do you own?				
	1-5			
	6-10			
	11 plus			
	Not applicable			
Question 3.				
Do you currently own, drive or operate a wheelchair accessible vehicle?				
	Own			
	Drive			
	Both			
	Not applicable			

Question 4.		
	ng authority is to protect the public. Do yo policy, and the way in which this is applie aim?	
	It does a very good job	
	It does a good job	
	It's about right	
	It doesn't do enough (please explain)	
	Don't know	
Comments		
Question 5.		
Question o.		
Hartlepool currently has a ls this number: -	approximately 160 licensed hackney carri	ages.
is this number	Too many	
	About right	
	Too few	
Question 6.		
What are the main proble than one)	ems facing you at the moment? (You may	tick more
tilati Otie)	Business is too quiet	
	Council costs are too high	
	Unlicensed drivers/vehicles	
	Private hires illegally picking up	
	Hackneys illegally ranking	
	Out of town vehicles illegally working	
	Other (please detail below)	

Question 7.	
Hartlepool's licensing fees are lower than those in other Tees Va Would you be prepared to pay a higher licence fee if it resulted in level of enforcement activity?	•
Yes	
No	
Comments	
Our officer 0	
Question 8.	
Adopting some changes to the current licensing policy may make difficult, or more expensive, for new drivers to be licensed. What effect of this be? (You may tick more than one)	
Fewer drivers would mean a better wage for current drivers	
There wouldn't be enough drivers to meet public demand	
Other (please explain)	
Question 9.	
The Driving Standards Agency Taxi test takes a couple of hours and covers issues such as road safety, passenger safety and incorpractical driving assessment. The test currently costs £56. Do yow ould be a good idea to require new applicants to pass the Driving Standards Agency Taxi Test?	cludes a u think it
Yes	
No (Please explain your reasons)	
Comments	

Question 10a.
Do you think it would be a good idea to require all new applicants to undertake, at their own expense, some training on disability awareness?
Yes
No
Question 10b.
Do you think this requirement should be extended to all existing drivers?
Yes
No
Comments
Question 11.
It is likely, either through a change to local policy or a change to national legislation, that Hartlepool will have to increase its number of wheelchair accessible hackney carriages. As it is unlikely that the Council would be given any funding to subsidise this, how do you think this could best be achieved?
Question 12.
Do you have any further comments you would like to make?
<u> </u>

A		7
4	_	Z

Your name and address (optional)		
		-
		-

The closing date for responses is Friday 29^{th} October 2010 and responses should be made, in writing, to: -

The Licensing Team
Hartlepool Borough Council
Bryan Hanson House
Hanson Square
Hartlepool
TS24 9BT

or, by e-mail to licensing@hartlepool.gov.uk