

Crawley Borough Council

Minutes of Licensing Committee

Monday, 9 September 2019 at 7.30 pm

Councillors Present:

M G Jones (Chair)

M L Ayling (Vice-Chair)

T G Belben, B J Burgess, M Flack, J Hart, K L Jaggard, K McCarthy, J Millar-Smith,
C J Mullins, D M Peck, R Sharma and K Sudan

Officers Present:

Tony Baldock	Environmental Health and Licensing Manager
Chris Pedlow	Democratic Services Manager
Kareen Plympton	Health, Safety and Licensing Team Leader
Jess Tamplin	Democratic Services Support Officer
Astrid Williams	Senior Lawyer (Solicitor)
Kate Wilson	Head of Community Services

Apologies for Absence:

Councillor B A Smith

1. Disclosures of Interest

No disclosures of interests were made.

2. Minutes

The minutes of the meeting of the Licensing Committee held on 10 June 2019 approved as a correct record and signed by the Chair.

3. Update of Appendix L of the Hackney Carriage and Private Hire Vehicle Policy

The Licensing Committee considered report [HCS/16](#) by the Head of Community Services. The Committee was guided through each paragraph of the report by the Environmental Health and Licensing Manager, which set out a proposal for a change to the Council's Policy for dealing with Hackney Carriages and Private Hire Vehicles in relation to its Appendix L – Enforcement. It was explained the rationale behind the suggested amendment was to improve, simplify and strengthen the policy for the purpose of public safety. Members were informed that included in the supplementary agenda was a revised and strengthened proposed [Appendix L](#) for their consideration,

and a revised wording for recommendation 2.3a both of which replaced the originally published versions.

The Committee were also informed that revisions to Appendix L had been based on the model recommendations devised by the Institute of Licensing (IOL) regarding taxi enforcement and public safety. The aims of the IOL's recommendations were to create consistency and a shared national standard across Licensing Authorities.

In considering the report, the Committee held a detailed and considered debate on the proposed revised Appendix L. During the discussion a number of issues were raised including:

Members sought clarity over the proposed timeframes in which following a conviction that the Council would consider granting a licence. It was confirmed that timeframes as listed in the proposed Appendix L would commence following the end of the conviction and not run concurrently. E.g. if a driver was convicted and banned from driving for 3 years, as a result of driving under the influence, then the proposal was that the Council would not consider granting a new licence for 7 years, starting once the 3 year driving ban had ended. It was also noted that the proposed timeframes were based on the level and nature of the offences and came directly from the model IOL guidelines. The IOL formulated those timeframes through consultation with a working party made up of key national stakeholders.

A concern was raised by a Member of the Committee that some of the tone of the proposed new policy, especially paragraph 1.2 of Appendix L, was quite subjective and if there were cultural or language barriers between a driver and passenger, it might lead to misinterpretation over 'the individual's attitude and temperament'. As a result this subjectivity might lead to 'unfair' decisions as to whether a driver was 'fit and proper' for a licence. In response officers tried to allay those fears, firstly confirming that proposed paragraph 1.2 was broadly a statement of the current law, including the term 'fit and proper'. Also officers have and would always take due regard to cultural and language differences when dealing with drivers across all aspects of their interactions, as per the Equality Act 2010. What the proposed policy was seeking to clarify was that criminal convictions were not the only factor officers would consider when assessing whether a person was fit and proper to hold a taxi licence. In the interests of public safety, officers have done and would continue to use any evidence available to them, such as complaints made over rudeness and poor behaviour.

Questions were raised as to whether there were any limits over the number of hours that a taxi driver could drive weekly, and whether drivers ignoring such a limit could be seen to be breaking the 'unacceptable behaviour' element of the proposed policy. In answer, it was explained that as drivers were self-employed there was no limit to the number of hours that they could work and were not aware of any official guidance regarding this. The Committee considered the possibility of adding a sentence requiring drivers to take a reasonable and responsible approach to the number of hours that they were at work to ensure that they were not overtired when driving and thus be able to drive safely. Members asked officers to consider the practicality of adding such a clause.

Members also asked of officers that, prior to the consultation being published, a further proofreading takes place as there were a number of typographical errors in Appendix L, with changes including the adding of the word 'and' to paragraph 16.4, so the phrase reads 'fit and proper person' rather than as it currently reads 'fit proper person.'

Following legal advice during the meeting the Committee decided that paragraph 7.3 of the report would be incorporated into the resolution 2.3a to be voted upon, in order to clarify that only new, not historic, cases of alleged misconduct by existing licence holders were to be taken into account when applying Appendix L.

RESOLVED

That the Committee

- 1) approves that the Licensing Team go out to public consultation on the draft revised [Appendix L](#) of the Council's Hackney Carriages and Private Hire Vehicles policy (as attached to the supplemental agenda), subject to any required clerical corrections which are delegated to officers to correct.
- 2) agrees that:
 - a) if at the close of the consultation there have been no adverse comments or objections, the revised Appendix L shall be adopted and come into effect on the 6th working day following the close of the consultation subject to the following qualification, that:
 - i. should an existing licence holder come to the notice of the Council for new alleged misconduct the updated Appendix L will be applied to them at that time; and/or
 - ii. if an existing licence holder fails to renew their licence on time and applies for a new licence, the updated Appendix L will then be applied.
 - or
 - b) if there have been adverse comments or objections, the proposed revised Appendix L with the comments and objections shall be reported back to the Committee for consideration and a decision as to whether the Appendix be adopted, with or without amendment.
- 3) requests that officers continue in their current professional approach of taking due regard to cultural differences when making decisions regarding taxi licensing.

4. Review of Statement of Licensing Policy Gambling Act 2005 (2020 - 2022) Consultation

The Committee agreed, at its meeting on 10 June 2019, to provide a collective response as part of the consultation on the Review of the Statement of Licensing Policy Gambling Act 2005 (2020-2022), as detailed in report [HCS/17](#) by the Head of Community Services.

The report was summarised by the Environmental Health and Licensing Manager, who explained that the Statement of Licensing Policy Gambling Act 2005 was a Policy Framework Document, and thus was subject to public consultation before being considered by the Overview and Scrutiny Commission and later submitted to the Cabinet and Full Council in December 2019 for final approval and adoption. It was highlighted to the Committee that Section 349 of the Act requires the Council to have a comprehensive policy, and that revisions were to be made every three years in

accordance with statutory guidance. The key changes to the Policy (summarised in Appendix B of report HCS/17) were also explained, including clarifications within the wording, and the addition of information regarding General Data Protection Regulations – reflecting changes in national legislation since the previous review. It was also noted that national legislation regarding the reduction of stakes for fixed odds betting terminals to £2.00 has been passed.

In considering their collective response, Members of the Committee expressed praise regarding the detailed standards concerning the protection of children from harm or exploitation by gambling, as found in section 4.2 of the Policy. Concerns were raised regarding the challenges of regulating the involvement of children in online gambling, to which the Environmental Health and Licensing Manager confirmed that online gambling is regulated nationally, and that the Gambling Commission is moving towards producing further regulations on this matter.

With no further comments the Chair, supported by the Committee, expressed approval regarding the review of fixed odds betting terminals legislation, noting the Council's historical involvement in calling on the Minister to request changes be made to the law. The Chair also welcomed the revisions made to the Policy and noted that opportunities to review and update it will continue to occur in the future.

The Committee expressed general agreement towards the revised Policy and gratitude to the officers responsible, and unanimously endorsed the changes.

RESOLVED

That the Committee endorses the draft Review of the Statement of Licensing Policy Gambling Act 2005 (2020-2022) and that this endorsement be submitted as their collective response to the consultation.

Closure of Meeting

With the business of the Licensing Committee concluded, the Chair declared the meeting closed at 8.27 pm

M G JONES
Chair