



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 13 DECEMBER 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor D Grant (Chair)
Councillor J Caldwell
Councillor J Williamson
Councillor J McMillan
Councillor F McAllister

Council Officials Present:

Mr I Forrest, Legal Advisor
Ms M Winter, Licensing Administration Officer
Mr I Dalgleish, Transportation Manager
Ms C Molloy, Senior Solicitor

Others Present

Insp S Broadhurst, Lothian & Borders Police (Items 1 & 2)
PC H Bowsher, Lothian & Borders Police (Items 1 & 2)
Mr C Paxton, Co-Chair of the Taxi Association (Items 4-6)
Mr G Brooks, Co-Chair of the Taxi Association (Items 4-6)
Ms S Dougall, Owner of Elite Private Hire (Item 4)
Mrs F Stewart, Committees Assistant (Items 1, 2 & 5)

Clerk:

Ms F Currie, Committees Assistant

Apologies:

Councillor J McNeill

Declarations of Interest:

None.

The Chair welcomed everyone to the meeting and indicated that the private items would be taken first on the agenda.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Licensing Sub-Committee unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

1. Applications for Grant of Taxi/Private Hire Car Driver's Licence

The Sub-Committee considered one application for grant of a licence and this was granted.

2. Application for Renewal of Taxi/Private Hire Car Driver's Licence

The Sub-Committee considered one application for renewal of a licence and this was agreed.

PUBLIC ITEMS

The representatives of the Police left the meeting and Mr Paxton and Mr Brooks, Co-Chairs of the Taxi Association, joined the meeting.

3. AMENDMENT OF RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING REGIME

A report had been submitted by the Executive Director (Support Services) to inform the Sub-Committee of the outcome of the resumed consultation process relative to the proposed amendment to the resolution on Public Entertainment licensing in the light of recent legislation.

The Legal Advisor presented the report. He indicated that previous reports on this matter had been considered by the Sub-Committee on 8 March 2012 and 11 October 2012.

For the purposes of Public Entertainment licensing, Section 41 of the Civic Government (Scotland) Act 1982 defined a "place of public entertainment" as "any place where, **on payment of money or money's worth**, members of the public are admitted or may use any facilities for the purposes of recreation." This helped to ensure that an event which was free to enter did not require a licence under Section 41. However, Section 176 of the Criminal Justice & Licensing (Scotland) Act 2010 amended Section 42 by deleting the words in bold above, resulting in free to enter events being caught by the licence regime with effect from 1 April 2012.

At their meeting on 8 March 2012, the Sub-Committee had agreed that the categories of activities which would require to be licensed under Section 42 should be reviewed and consideration given to specific exceptions to protect free local and charitable events from being unduly penalised. Accordingly, the wording of the resolution was amended and advertised in the local press on 31 August 2012 giving a 28 day period for the submission of objections. At their meeting on 11 October

2012, the Sub-Committee considered the one objection received as a result of this consultation and agreed that the wording of the resolution should be further amended with particular reference to charitable activities and the numerical limit for “small scale” events.

The proposed resolution, amended in terms of this decision, was advertised in the local press for a further 28 day consultation period. The advert appeared on 19 October with the consultation period ending on 16 November. As a result of the consultation, one fresh objection was received.

In their letter of objection, North Berwick Community Council expressed their concerns that the resolution, if adopted, would not result in appropriate scope for entertainment licensing in East Lothian. They urged the Council to consider a wider review of entertainment licensing but, failing that, suggested a revised wording of the resolution, similar to that adopted by Glasgow City Council.

The Chair noted that this matter had been fully debated at two previous meetings; however he accepted the Community Council’s comments regarding clarity of definitions on what constituted “not for profit” and “small scale”. He invited comments from Members.

Councillors Caldwell and McAllister agreed that, although there was no need for a wider consultation on Public Entertainment licensing, the current wording of the proposed resolution could benefit from amendment. Councillor McMillan pointed out that some “not for profit” events involved the participation of stall holders who paid a fee to the organisation/charity to be present but who were selling their own products for profit. Ms Winter, Licensing Administration Officer, explained that these events would be covered by a Street Traders’ licence and there would be no requirement to consider them in terms of Public Entertainment licensing.

Members agreed that there was a need for clarification of what the resolution meant by “not for profit” and “small scale” but that they did not want to adopt word for word the definition used by Glasgow City Council. The Legal Advisor indicated that further drafting could be done and circulated to members by e-mail for agreement; this would allow the Licensing Office to re-advertise the amended resolution early in the New Year. Ms Winter agreed that the Licensing Office would also undertake to ensure that clear and up-to-date guidance was available on the Council’s website.

Decision

The Sub-Committee agreed to authorise the Corporate Legal Advisor and such staff as she may delegate to draft further changes to the amended resolution, in line with the objection received and taking account of the views of Members, and to advertise the amended wording in the local press.

4. PROPOSED AMENDMENTS TO CONDITIONS OF LICENCE – TAXI AND PRIVATE HIRE

The Executive Director (Support Services) had submitted a report to advise the Licensing Sub-Committee of the results of the consultation on proposed changes to licensing conditions regarding the age of vehicles and signage to be used on Private Hire Cars.

The Legal Advisor presented the report. He indicated that a previous report proposing changes to current procedures in three areas had been considered by the Sub-Committee at its meeting on 11 October 2012. One of these, relative to a new form of “red sticker” label to be used on cars which were suspended from active service, was accepted at that meeting. The Sub-Committee agreed as regards the other two proposals that the Corporate Legal Advisor would consult with members of the Trade and report back to the next meeting.

The first proposal was that the wording of the current taxi/PHC licence be amended relative to the clauses on the age of vehicles, in particular to remove the words “Prima facie” where they appear in clause 9. If the amendment was accepted, it would be the clear position that a vehicle which had reached the age of six years (or twelve for custom built cabs) would no longer be suitable for renewal of licence.

The second proposal was to replace the current system of screen lights for Private Hire cars with an adhesive label which would be placed on each door/side of the cars. This would result in a significant financial saving to the Council. Currently the screen light costs around £40 per vehicle. The proposed labels would in contrast cost approximately £3.

Following consultation on these proposed changes, two letters of objection were received. One objected to the proposed adhesive labels for private hire vehicles but supported the clarification of the age of vehicles. The letter suggested that a more acceptable solution would be to continue with screen lights but pass the cost on to operators. In contrast the other letter suggested that the six year limit was too arbitrary and should be relaxed.

The Legal Adviser circulated a document showing the arrangements currently in place in other local authority areas relative to the age of taxi/Private Hire vehicles. He also pointed out that the Department of Trade and Industry recommended that the test for renewal of a vehicle’s licence be based on roadworthiness rather than age. However, it was a matter for individual Councils to decide on their own test criteria.

Present at the meeting were Ms Sheila Dougall, owner of Elite Private Hire, who had submitted one of the written objections and Mr Paxton and Mr Brooks, Co-Chairs of the Taxi Association.

The Chair invited Ms Dougall to speak first. She advised Members that, as indicated in her letter, her objections related solely to the proposal to replace the current screen lights with a sticker for the side of the vehicle. She claimed that the proposed sticker was unsightly when compared with a screen light and that the design did not make it clear enough that the vehicle was for private hire. She suggested that if the Council decided to continue with screen lights, the added costs could be passed on to operators as part of their licence fee.

The representatives of the Taxi Association were then invited to put forward their views. Mr Brooks began by apologising for the Association’s failure to submit a written response to the consultation. He indicated that for a variety of reasons they had been unable to arrange a meeting of their members to discuss the proposals. Mr Brooks made a formal request that the Sub Committee delay their decision to the next meeting to allow the Association’s members to meet and agree a formal response to the proposals.

In the meantime, Mr Paxton indicated that he personally would have no objection to replacing screen lights with stickers but would suggest that any cost savings be used to reduce the current licence fee. Mr Brooks wished to make his own views clear in relation to the age of vehicles. He recommended that the age restriction be removed and for the test criteria to be based on the roadworthiness of the vehicle. He pointed out that in the last ten years improvements in manufacture meant that vehicles were much safer and lasting longer – often far beyond the current six year limit. He also felt that the current age limit did not take into account the fact that Private Hire vehicles often had lower mileage than hackney cabs.

Ms Dougall commented that the six year age limit for vehicles was appropriate and should not be relaxed as there were many vehicles on the road at present which, in her view, were not up to standard. She also felt that there should be more spot checks and inspections to ensure that the overall standard of Private Hire vehicles was maintained at an acceptable level.

The Chair invited comments from Members and there was general agreement that continuing with an age restriction was too arbitrary a test and there needed to be more emphasis on the roadworthiness and overall condition of the vehicle. It was also noted that the majority of Councils did not have an age restriction on vehicles. Councillor Caldwell supported Ms Dougall's comments in relation to the general condition and cleanliness of vehicles and felt that these matters should be addressed during tests and inspections.

In relation to the replacement of screen lights with stickers, Councillor Williamson suggested revising the proposed design to make its purpose clearer. Overall, Members were of the view that continuing with screen lights was no longer appropriate on the grounds of fitness for purpose and cost.

The Chair then asked all visitors to withdraw to allow the Sub-Committee to consider the matter in private.

Decision

The Sub-Committee agreed:

- (i) to authorise the Corporate Legal Adviser and such staff as she may delegate to make amendments to the proposed sticker for Private Hire vehicles in line with the objections received and taking account of the views of Members; and
- (ii) to postpone a decision in relation to the proposals on changes to the age restriction on taxi/Private Hire vehicles to allow the Taxi Association to submit a written response to the consultation no later than end January 2013.

5. INSTALLATION OF CAMERAS IN TAXI/PRIVATE HIRE VEHICLES

The Executive Director (Support Services) had submitted a report to advise the Licensing Sub-Committee on the installation of SVC 100 GPS front facing cameras in taxi/Private Hire vehicles.

Ms Catherine Molloy, Senior Solicitor, presented the report. She pointed out to Members that this issue was being driven by the insurance industry rather than the Council. The responsibility and cost for installation of cameras in a taxi/Private Hire vehicle would be a matter for each insurance company and operator/driver. The

Council was being asked to give its approval to installations where they were considered necessary by an insurance company.

The Chair invited comments from Members. In response to a question from Councillor Caldwell, Ms Molloy confirmed that the installation of cameras was not a legal requirement. This was simply an attempt by the Council to preempt any requests from individual insurance companies.

Mr Paxton, Co-Chair of the Taxi Association, indicated that his members had no objection to the installation of these cameras where the insurance company considered it necessary. However, he noted that his own insurance company, Aviva, preferred to fit their own cameras rather than use those provided by companies such as Smartwitness. Ms Molloy emphasised that the Council was not requesting that drivers or operators install cameras from Smartwitness; this was a matter for the insurance companies.

Decision

The Sub-Committee agreed to approve the installation of SVC 100 GPS front facing cameras in taxi/private hire vehicles in the instances where the insurance company advise the drivers of taxi/Private Hire vehicles as mandatory.

6. CRIMINAL JUSTICE & LICENSING (SCOTLAND) ACT 2010 – CHANGES TO CIVIC LICENSING REGIME

The Executive Director (Corporate Resources) had submitted a report to advise the Licensing Sub-Committee of further process in respect of changes being introduced to the Civic Government Licensing regime by the Criminal Justice & Licensing (Scotland) Act 2010.

Ms Catherine Molloy, Senior Solicitor, presented the report. She explained to Members that, as agreed at a previous meeting, the amended resolution relative to Late Hours Catering licences was advertised in the East Lothian Courier on 5 October 2012. The amendment to the resolution involved the words “meal or refreshment” where they occurred in section 42 of the 1982 Act being deleted and replaced with “food”. Any representations in respect of the proposed amendment were required to be made to the Council by 2 November 2012, however none was received.

Ms Molloy recommended that the Sub-Committee formally adopt the amended resolution and authorise officials to advertise the formal adoption, as required by section 8 of the 1982 Act.

Decision

The Sub-Committee agreed:

- (i) to formally adopt the resolution relative to Late Hours Catering licences as stated in the report; and
- (ii) to authorise the Corporate Legal Advisor or such other officers as she may nominate to proceed to advertise the formal adoption of the resolution relative to Late Hours Catering licences as referred to in the report, and as required by section 8 of the 1982 Act.

The Legal Advisor indicated that he had two further items which he required Members to note.

SCOTTISH GOVERNMENT CONSULTATION ON TAXI/PRIVATE HIRE LICENCES

The Legal Advisor advised Members that this consultation was currently underway and, as a licensing authority, the Council would wish to submit their views on this issue.

Decision

The Sub-Committee agreed to authorise the Legal Advisor and such staff as he may delegate to begin drafting a response to the consultation and to bring this forward for discussion at the February 2013 meeting.

JOINT SCOTTISH AND ENGLISH CONSULTATION ON ABOLITION OF STREETPEDLARS' LEGISLATION

The Legal Advisor indicated to members that this consultation was also currently underway and the proposed abolition of street pedlars' legislation would have implications for current legislation relating to street traders.

Decision

The Sub-Committee agreed to authorise the Legal Advisor and such staff as he may delegate to begin drafting a response to this consultation and to bring this forward for discussion at a future Sub-Committee meeting.

Lastly, the Chair advised Members that due to conflicting deadlines the January 2013 meeting of the Sub-Committee had been cancelled and any business for this meeting would be taken forward to the meeting on 14 February 2013.