



Licensing Committee

3 June 2015

Time 10.00 am **Public Meeting?** YES **Type of meeting** Regulatory
Venue Committee Room 1 - Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Membership

Chair Cllr Alan Bolshaw (Lab)
Vice-chair Cllr Bishan Dass (Lab)

Labour

Cllr Greg Brackenridge
Cllr Ian Claymore
Cllr Harman Banger
Cllr Milkinderpal Jaspal
Cllr Rita Potter
Cllr Keith Inston
Cllr John Rowley
Cllr Daniel Warren

Conservative

Cllr Mark Evans
Cllr Patricia Patten

Liberal Democrat

Quorum for this meeting is three Councillors.

Information for the Public

If you have any queries about this meeting, please contact the democratic support team:

Contact Linda Banbury, Democratic Support Officer
Tel/Email Tel: 01902 555040 Email: linda.banbury@wolverhampton.gov.uk
Address Democratic Support, Civic Centre, 2nd floor, St Peter's Square,
Wolverhampton WV1 1RL

Copies of other agendas and reports are available from:

Website <http://wolverhampton.moderngov.co.uk>
Email democratic.support@wolverhampton.gov.uk
Tel 01902 555043

Please take note of the protocol for filming and recording of, and use of social media in, meetings, copies of which are displayed in the meeting room.

Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

Agenda

Part 1 – items open to the press and public

Item No. *Title*

BUSINESS ITEMS

- 1 **Apologies for absence**
- 2 **Declarations of interest**
- 3 **Minutes of previous meeting** (Pages 3 - 14)
 - (a) Meeting, 25 March 2015 [for approval]
 - (b) Sub-Committee – meetings 25 March 2015 and 22 April 2015 (x 2) [for approval and adoption]
- 4 **Matters arising**
[to consider as necessary]
- 5 **Schedule of outstanding minutes** (Pages 15 - 16)

DECISION ITEMS

- 6 **Exclusion of Press and Public**
To pass the following resolution:
That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business as they involve the likely disclosure of exempt information falling within paragraphs 3 and 7 of Schedule 12A to the Act relating to the business affairs of particular persons/any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 7 **Minutes of previous meeting** (Pages 17 - 24)
Sub-Committee – meetings, 15 and 20 May 2015 [for approval and adoption]
- 8 **Matters Arising**
[To consider as necessary]
- 9 **Review of Decision Making 2015/16** (Pages 25 - 68)
[To approve the decision making process and the proposed delegations in relation to category 3 decision making powers and to note decisions made during 2014/15]



Licensing Committee

Minutes - 25 March 2015

Attendance

Members of the Licensing Committee

Cllr Bishan Dass (Chair)
Cllr Alan Bolshaw (Vice-Chair)
Cllr Greg Brackenridge
Cllr Craig Collingswood
Cllr Harman Banger
Cllr Milkinderpal Jaspal
Cllr Patricia Patten
Cllr Rita Potter
Cllr Paul Singh

Employees

Linda Banbury	Democratic Support Officer
Rob Edge	Section Leader - Licensing
Sarah Hardwick	Solicitor
Andy Jervis	Head of Regulatory Services
Elaine Moreton	Section Leader - Licensing
Colin Parr	Licensing Manager

Part 1 – items open to the press and public

Item No. *Title*

- 1 Apologies for absence**
Apologies for absence were submitted on behalf of Councillors Ian Claymore and Mark Evans.
- 2 Declarations of interest**
There were no declarations of interest.
- 3 Minutes of previous meeting - 21 January 2015**
Resolved:
That the minutes of the meeting held on 21 January 2015 be approved as a correct record.
- 4 Matters arising**
There were no matters arising in respect of the meeting held on 21 January 2015.
- 5 Schedule of outstanding minutes**
Resolved:
 - a) That the report be received.

- b) That the meeting scheduled to take place on 29 April 2015 be cancelled due to a lack of business.

6 Future Provision of Hackney Carriage Services

The Licensing Manager presented the report which sought approval to the commissioning of an independent Hackney Carriage Demand Survey, to provide a detailed analysis of the current demand for Hackney Carriage services across the city and the ability of the existing fleet to meet that demand. Responding to Councillor's questions, he advised that the survey would adhere rigidly to Department of Transport best practice guidelines and that consultees would include representatives of the trade.

Resolved:

- a) That an independent Hackney Carriage Demand Survey be undertaken.
- b) That the existing Hackney Carriage age criteria be maintained, pending receipt of the survey.

7 Hackney Carriage Fares 2015

Elaine Moreton, Section Leader (Licensing), presented the report which outlined the request of the Hackney Carriage trade associations to freeze Hackney Carriage fares for 2015 given the current economic climate.

Resolved:

That the report be received.

8 Licensing Act 2003 - Review of Statement of Licensing Policy

Rob Edge, Section Leader (Licensing) presented the report, which advised the Committee of the responses to the consultation exercise carried out in regard to the Statement of Licensing Policy. Copies of the draft, amended Statement of Licensing Policy were circulated at the meeting. A full version of the consultee responses had been placed in the Councillor's library area. He further advised that the consultation had included the Vibrant, Safe and Sustainable Communities Scrutiny Panel, adding that the Panel had welcomed the proposals.

It was noted that there was a typographical error in the report, in that the Dudley Road Cumulative Impact Zone related to 'on and off licences'.

Resolved:

- a) That the results of the consultation in regard to the Statement of Licensing Policy be noted.
- b) That the revised Statement of Licensing Policy be agreed for submission to full Council for final approval and implementation.



Licensing Sub-Committee (Private Hire/Hackney Carriage)

Minutes - 25 March 2015

Attendance

Members of the Licensing Sub-Committee (Private Hire/Hackney Carriage)

Cllr Alan Bolshaw
Cllr Bishan Dass (Chair)
Cllr Patricia Patten

Employees

Linda Banbury	Democratic Support Officer
Sarah Hardwick	Solicitor
Elaine Moreton	Section Leader - Licensing

Part 1 – items open to the press and public

Item No. *Title*

- 1 Apologies for Absence**
There were no apologies for absence.
- 2 Declarations of Interest**
There were no declarations of interest.
- 3 Exclusion of Press and Public**
Resolved:
That in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information within paragraph 3 of Schedule 12A to the Act relating to the business affairs of a particular person.
- 4 Review prior to renewal of a Private Hire Vehicle Driver's Licence**
The Chair welcomed everyone to the meeting, introductions were made and he outlined the procedure to be followed.

Mr M was in attendance at the meeting, accompanied by his legal representative, Mr S, in connection with the review, prior to renewal, of his Private Hire Vehicle Driver's Licence (Licence).

The Section Leader (Licensing) outlined the report which had been circulated to all parties in advance of the meeting. Mr S commented that the report was very brief and did not cover the totality of circumstances.

Mr S, on behalf of his client, questioned why the matter had been brought before the Sub-Committee, given that the punishment of a four month suspension had already been imposed at an earlier meeting (13 August 2014) and that the matter was pending in regard to appeal proceedings. With regard to the failure of Mr S to attend the Magistrates' Court, he advised that he had faxed available dates to the Court in regard to the pre-hearing, but unfortunately they had not been transferred to the relevant Court file. The matter had now been referred to the Crown Court and would be heard on 17 April 2015. It was noted that Mr M's Private Hire Vehicle Driver's Licence had expired on 4 March.

The Council's Solicitor advised that she did not agree with the legal opinion of Mr S and believed that the Sub-Committee was required and make a decision upon the application for renewal of a Mr M's Private Hire Vehicle Driver's Licence in regard and the test to apply was whether he was fit and proper. Mr M would have a separate right of appeal against any decision made and, unless a decision was made, Mr M would not be able to take advantage of the stay of execution given under Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 and continue driving until disposal of his appeal.

Summing up, the Section Leader (Licensing) reiterated the Council's view that the Sub-Committee had a duty to consider whether Mr M was a fit and proper person to hold a Private Hire Vehicle Driver's Licence.

Summing up, Mr S pointed out that the Sub-Committee had decided not to revoke Mr M's Licence in August 2014, but to impose a four month suspension. He stated that the Sub-Committee had no additional information to consider and Mr M should be allowed to renew his Licence. He had continued to work since August 2014 without incident.

At this juncture the Section Leader (Licensing), Mr M and Mr S withdrew from the meeting to enable the Sub-Committee to reach their decision. The Council's Solicitor advised them of the options available to them in determining the application.

The Sub-Committee considered all the evidence before them, both written and oral.

The parties returned to the meeting and were advised of the decision of the Sub-Committee as follows:

Resolved:

That the only decision for the Sub-Committee today was whether or not to grant the renewal of the Licence.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may on application under Section 51 of the Act, refuse to renew the licence of a driver on grounds of any other reasonable cause.

Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall grant a licence, provided that they shall not grant unless they are satisfied that the applicant is fit and proper.

The Sub-Committee considered all the information presented, in particular the circumstances surrounding:

1. complaints made about the behaviour of Mr S in April and May 2014, and
2. the appeal against the decision to suspend Mr M's Private Hire Vehicle Driver's Licence, which is to be determined by the Crown Court on 17 April 2015.

The Sub-Committee were satisfied that, in order for Mr M to take advantage of the stay of execution provided in Section 77 of the Act and to continue driving until disposal of the appeal, the decision on the renewal application was needed.

In the circumstances, the Sub-Committee did not deem Mr M a fit and proper person and therefore had no option but to refuse to renew his Private Hire Vehicle Driver's Licence, in accordance with Section 5.1.25(b) of the Council's guidelines relating to the relevance of convictions and breaches of licence conditions.

Mr M has a right of appeal to the Magistrates' Court within twenty one days of written receipt of this decision.

This page is intentionally left blank



Licensing Sub-Committee

Minutes - 22 April 2015

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Rita Potter

Conservative

Cllr Patricia Patten

Employees

Linda Banbury
Rob Edge
Sarah Hardwick

Democratic Support Officer
Section Leader - Licensing
Solicitor

Item No. *Title*

1 **Apologies for absence**

There were no apologies for absence.

2 **Declarations of interest**

There were no declarations of interest.

3 **Licensing Act 2003 - Application for variation to a Premises Licence in respect of The Malt Shovel, 131 Willenhall Road**

In attendance

For the premises

Mr E Shippey and Ms L Heath - Premises Licence Holders

Responsible Authorities

Elaine Moreton - Licensing Authority

Sarah Stiles - Environmental Health (Commercial)

Other Persons

Miss K Hill - local resident

Mr P Kelly - local resident

The chair introduced the parties and outlined the procedure to be followed at the meeting.

Rob Edge, Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance. A correct version of the current premises licence, to replace the document at Appendix 3 to the report, was circulated at the meeting.

At this juncture Mr Shippey outlined the application for variation of the premises licence provide for the sale of alcohol and recorded music until 2 am with close of premises extending until 2.30 am.

On a point of clarification Elaine Moreton, Section Leader (Licensing) (Responsible Authority) indicated that a conversion application had been submitted by the premises when the Licensing Act came into force in 2005. Additional conditions had been added to the licence on 10 June 2005 to address noise concerns. She added that performance of dance was not part of the current licence and the premises licence holder had agreed to withdraw this aspect from the variation application. The Sub-Committee was further advised that the capacity on the whole of the premises was limited to 60 during periods of regulated entertainment.

Rob Edge, Section Leader (Licensing) advised that some information in the variation application contradicted the current licence conditions and it was usual practice for the applicant to consider current conditions prior to submitting a variation application. This had not happened in this case.

Responding to questions, Mr Shippey stated that two events had been held in the courtyard area and the music had been turned down following requests by the Environmental Health Out of Hours team. He indicated that three door staff were employed on Friday and Saturday nights and they utilised clicks to monitor numbers entering and exiting the premises. Police monitored the premises on a weekly basis which was welcomed by the premises.

The Responsible Authorities outlined their representation in support of the prevention of public nuisance licensing objective, made due to the substantial number of noise complaints received in regard to the premises over a number of years.

In response to questions, the Sub-Committee was advised that the complaints originated from a number of local residents and had reduced since September 2014, although this could be due to the fact that residents would not have their windows open during the wintertime. The complaints related to noise from the patrons and music. The Responsible Authority representatives believed the complaints would not have been made if the premises had complied with the licence conditions. It was further noted that the noise issues could not been corroborated as the Council no longer had a reactive out of hours service.

At this juncture, the local residents outlined their representations. Miss Hill indicated that she had received complaints from a number of residents, adding that not all came via the PACT meetings. Mr Kelly indicated that his home backed on to the premises and noise nuisance emanated from outside the premises where music was played.

The residents responded to questions indicating that calls had been made to the Police who had referred them to Environmental Health. It was noted that the premises licence holder had attended PACT meetings but was of the opinion that the

noise nuisance referred to was not from his premises. It was further noted that the premises licence holder had agreed to remove the speaker from the courtyard. Prior to the visit from Environmental Health, the premises licence holder was not aware that he was breaching his licence conditions.

The Council's Solicitor sought clarification upon whether there were noise issues irrespective of the outside speaker and advised that the Sub-Committee could only deal with the variation application which did not include the outside area. The Sub-Committee could only consider the application before them. Any issues of non-compliance relating to the current licence could only be considered if an application for review of the licence was made.

All parties were afforded the opportunity to make a closing statement.

4 Exclusion of press and public

Resolved:

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.

5 Deliberations and decision

The Sub-Committee discussed the issues which had been raised during consideration of the application for variation of the premises licence.

6 Re-admission of press and public

The parties returned to the meeting and were advised of the Sub-Committee's decision as follows:

7 Announcement of decision

The Sub-Committee have taken note of all the written concerns raised in respect of The Malt Shovel, 131 Willenhall Road, Wolverhampton. They have listened to the arguments of those who have spoken at this hearing, both for and against the application.

The Sub-Committee have heard from Environmental (Commercial) and the Licensing Authority that the Premises have failed to comply with conditions currently on the Premises Licence which has led to issues of noise nuisance. When questioned about conditions on his Licence, the Premises Licence Holder has not only failed to comply, but appears to have limited knowledge of those conditions. They have also heard from Environmental Health that noise appears to emanate from inside and outside the premises and that, although complaints have been less since September 2014, this is likely to be due to the winter when doors are closed and music is not played outside. They have also heard that, until recently, a small speaker was housed in the courtyard to the premises in breach of the terms of the licence.

The Sub-Committee have taken note of the written representations from interested persons and also oral representations from local residents who have attend today. It is noted that complaints have been received from a number of different residents who have witnessed noise nuisance.

The Sub-Committee have also taken into account representations from the applicant and have heard that:

1. it is not always clear whether noise issues are emanating from The Malt Shovel;
2. any noise nuisance after 2 am cannot be from The Malt Shovel as the premises close at 2 am;
3. there was a small speaker in the courtyard but following talks with Environmental Health (Commercial), this has now been removed, and
4. noise levels are monitored and the patrons are asked to leave the premises quietly.

The Sub-Committee have only considered relevant matters and note there is no evidence of drug use at the premises.

However, having considered the views of all concerned, the Sub-Committee have decided that the application for variation of the Premises Licence is rejected in support of the prevention of public nuisance licensing objective.

All parties have a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.



Licensing Sub-Committee (Private Hire/Hackney Carriage)

Minutes - 22 April 2015

Attendance

Members of the Licensing Sub-Committee (Private Hire/Hackney Carriage)

Cllr Alan Bolshaw (Chair)
Cllr Patricia Patten
Cllr Rita Potter

Employees

Linda Banbury	Democratic Support Officer
Sarah Hardwick	Solicitor
Elaine Moreton	Section Leader - Licensing

Part 1 – items open to the press and public

Item No. *Title*

- 1 Apologies for Absence**
There were no apologies for absence.
- 2 Declarations of Interest**
There were no declarations of interest.
- 3 Exclusion of Press and Public**
Resolved:
That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.
- 4 Review of a Private Hire Vehicle Driver's Licence**
Mr JI was present at the meeting accompanied by his wife.

The Chair made introductions and outlined the procedure to be followed during the meeting. The Section Leader (Licensing) outlined the report which had been circulated to all parties in advance.

Mr I responded to the Sub-Committee members and employees of the Council in regard to the complaint of inappropriate behaviour/conduct. He also circulated to the meeting some character references.

JL, his wife and the Section Leader (Licensing) withdrew from the meeting to enable the Sub-Committee to determine the matter. They considered all the information presented at the meeting, specifically the circumstances surrounding the complaint received by Licensing Services on 11 February 2015. They noted that a serious allegation had been made in regard to the driver's conduct on the evening of 6 February 2015. They also took into account the character references produced. The Sub-Committee believed that inappropriate conduct had taken place and:

Resolved:

That, in accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and paragraph 5.1.25(a) of the Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions, the Licensing Sub-Committee have decided to suspend Mr JL's Private Hire Vehicle Driver's Licence for a period of two months.

The driver has a right of appeal against the above decision within 21 days of written receipt of this decision.



Licensing Committee

3 June 2015

Report Title

Schedule of Outstanding Minutes

Originating service

Delivery/Democratic Support

Accountable employee

Linda Banbury

Democratic Support Officer

Tel

01902 55(5040)

Email

linda.banbury@wolverhampton.gov.uk

Recommendation for noting:

The Committee is asked to note the report

	Subject	Date of Meeting and Minute No.	Decision	Comments
1.	Future of Hackney Carriage Services	13.02.13 38(c)	Further review of Hackney Carriage provision to take place in 2016	Report to July 2016 meeting
2.	City Centre Street Trading	18.06.14 8	Further report to be presented in regard to city centre street trading designation of licensed streets following completion of the consultation period	Report to future meeting
3.	Update on Wolverhampton Alcohol Strategy – 2011/15	10.09.14 6	Further report to be presented in six months	Report to future meeting
4.	Private Hire Vehicle Roof Signs	10.09.14 7	Further report to be presented at the end of the twelve week consultation period	Report to future meeting
5.	Summary of Officer Decisions	10.09.14 9	Further report to be presented at beginning of 2015/15 municipal year	Report to this meeting
6.	The Licensing Authority and Safeguarding Children	12.11.14 6	Report to be presented in 12 months on the outcomes of the Forum	Report to November 2015 meeting
7.	Regeneration Compliance and Regulatory Policy Review	21.1.15 9	Further report to be presented including information on the proposal for a Black Country policy	Report to future meeting

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank