

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **REGULATORY COMMITTEE** held on 11 November 2016 at 2.00 pm

Present

Councillors

D R Coren (Chairman)
R J Chesterton, Mrs F J Colthorpe,
Mrs G Doe, C J Eginton, T G Hughes,
P H D Hare-Scott and J L Smith

Apologies

Councillor(s)

K Busch, D J Knowles, L D Taylor and R Wright

Also Present

Officer(s):

Simon Johnson (Legal Services Manager), Thomas Keating (Lead Licensing Officer) and Julia Stuckey (Member Services Officer)

8 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs K Busch, D J Knowles, L D Taylor and R Wright.

9 **PUBLIC QUESTION TIME**

There were no members of the public in attendance.

10 **MINUTES OF THE LAST MEETING**

The Minutes of the last meeting were approved as a true record.

11 **ACCESS TO INFORMATION ACT - EXCLUSION OF THE PRESS AND PUBLIC**

It was **RESOLVED** that under section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual.

(Proposed by the Chairman)

12 **ENFORCEMENT UPDATE**

The Lead Licensing Officer provided an update to Members regarding two cases that had been investigated by the team, including one that had resulted in the decision to refuse a licence by a Sub Committee.

Following discussion of these items the meeting reopened to the public.

The Lead Licensing Officer provided the following update regarding recent and current enforcement action:

- Since the last meeting of the Committee in July five interviews had been held under caution, including;
 - An allegation that one taxi driver had thrown a cup of tea at another;
 - A driver parking a private hire vehicle in a taxi bay;
 - Two operators operating without at MOT.
- Action taken in these cases included simple cautions, no further action and one matter was pending.
- The Officer explained that six Sub Committee hearings had been called in November, a number higher than in the entire previous year.
- Two of the hearings had been due to licenced drivers not submitting paperwork in good time, which resulted in warnings being given and one hearing that had been held in private.
- Since July the team had inspected 31 vehicles, 16 of which were undertaken alongside the Police in multi-agency work.
- In the same period 2 new Dog Boarding Premises Licences had been issued and there were 5 new applications pending.

When asked why there had been such a spike in the number of hearings the officer informed the Committee that the Licencing Team were being more proactive in their approach.

13 **DRIVING QUALIFICATIONS (0.10)**

The Committee had before it a report* from the Director of Corporate Affairs and Business Transformation regarding driving qualifications for new and existing Hackney Carriage and Private Hire Drivers. The Lead Licencing Officer explained that Mid Devon District Council required all new Hackney Carriage and Private Hire drivers to complete a Driving Vehicle Standards Agency (DVSA) Driver Assessment as part of the application process. Existing drivers were sometimes required to take this test if there had been concerns about their standard of driving.

The officer explained that the DVSA had recently notified the licensing authority that this test would be withdrawn from 31 December 2016, although it appeared from the relevant website that bookings could no longer be made. As a result, the licensing authority needed to research and establish suitable testing alternatives.

On behalf of a number of Councils, the Local Government Association had raised concerns with the Department for Transport over the short period of notice given for this decision. It was initially hoped that this would lead to a temporary extension of the existing qualification, however it did not look like that would now be the case.

In order to ensure that the licensing process could carry on with as little disruption as possible, especially to new applicants, it was important that alternative options were put in place as soon as possible

The report suggested that, in the absence of a single recognised qualification provided by a national government agency, the Council maintained a list of

appropriate driving qualifications which it considered to be suitable for licensing purposes. Applicants for new Hackney Carriage and Private Hire driver's licences would then be required to select from this list and pass a relevant qualification as part of the application process. Similarly, those existing drivers required to take a qualification for enforcement purposes could choose from the list.

It was further suggested that the maintenance of such a list, including the addition and removal of qualifications, be delegated to the Public Health and Professional Services Manager and the Lead Licensing Officer. This would allow the list to be updated faster and help to ensure that in future, delays were kept to a minimum should the qualifications available be altered.

Discussion took place regarding:

- The possibility of specifying a qualification that met the required standard and asking agencies to provide testing for that qualification;
- It was believed that DVSA instructors were being used by new providers;
- Disappointment in the limited amount of notice given by the DVSA;
- The possibility of using the Fire Service who were running driver instructor training and could be in a position to run tailor-made courses.

It was **RESOLVED** that;

- a) All applicants for a Hackney Carriage/Private Hire driver licence be required to produce evidence of successful completion of a driving qualification which was included within a list of acceptable qualifications maintained by the Council (replacing the previous requirement of the DVSA taxi driver assessment).
- b) That authority to establish a list of acceptable qualifications be delegated to the Public Health and Professional Services Manager and the Lead Licensing Officer. This would also include the authority to add, amend and remove qualifications from the list.

(Proposed by Cllr R J Chesterton and seconded by Cllr P H D Hare Scott)

Note: a) Report * previously circulated and attached to signed Minutes.

b) Cllr Mrs F J Colthorpe declared an interest as she was a Member of the Fire Authority.

14 **RE-ADOPTION OF PART II OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 (0.20)**

The Committee had before it a report * from the Director of Corporate Affairs and Business Transformation regarding re-adoption of Part II of the Local Government (Miscellaneous Provisions) Act 1976 within the District of Mid Devon.

The Lead Licencing Officer explained that the purpose of the report was to set out the final stage of the legal process to confirm the re-adoption of the provisions of Part

II of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') for the whole of the Mid Devon administrative area. Part II of the 1976 Act contained provisions relating to the licensing of Private Hire and Hackney Carriage vehicles, drivers and operators.

Adopting the 1976 Act therefore enables the Council's taxi licensing function to operate including the setting of fees and for carrying out its enforcement duties.

The officer informed the Committee that after the 1976 Act came into force, in May 1994 under the constitution in place at the time, the Environment and Amenities (E&A) Committee resolved that the Council should adopt Part II of the 1976 Act. Following compliance with the statutory procedures this came into effect from 18 August 1994.

A routine service review of the adoption of the Act completed during August 2016 evidenced the resolution above, unfortunately during the intervening twenty-two years the original press notices and the parish/town council notices did not fully survive, therefore could not be produced.

The outcome of the above review was subsequently highlighted in the report of an audit of the Licensing team by internal audit services also in August 2016. The report recommendation E.2 had set out that the adoption of the Act be re-evidenced and therefore that Regulatory Committee formally (re)adopt the Act (to the extent it was not already in force) as a high priority. A target date of no later than 31 December 2016 had been fixed in order to allow for statutory procedures to be followed. The audit outcomes were reported and agreed at the meeting of the Audit Committee on 20 September 2016.

The officer explained that since records could now be scanned/duplicated and held electronically there was a significantly greater chance that the records of adoption would be traceable in the future.

He further clarified that there was no intention to change the existing position with respect to Part II of the 1976 Act therefore all policies, practices, conditions and delegations would continue unchanged where applicable.

The officer confirmed that two notices had been placed in local newspapers and all Town and Parish Councils had been notified. All statutory requirements had been complied with.

It was **RESOLVED:**

- a) To the extent that they are not already in force the provisions of Part II of Local Government (Miscellaneous Provisions) Act 1976 Act, (other than section 45), are to apply to the whole area of the Council on and after the appointed day;
- b) The appointed day for the purposes of this resolution shall be 12 December 2016 (being not before the expiration of the period of one month beginning with the day on which this resolution is passed).

- c) All powers, duties and provisions in the Council's Constitution relating to Part II of the Local Government (Miscellaneous Provisions) Act 1976 and all existing policies, practices and conditions relating thereto shall continue to apply on and after the appointed day.

(Proposed by Cllr J L Smith and seconded by Cllr T G Hughes)

Note: - Report * previously circulated and attached to Minutes.

15 **CHANGES TO LEGISLATION (AND PROPOSED CHANGES) AFFECTING HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING (0.24)**

The Committee had before it and **NOTED** a report * from the Director of Corporate Affairs and Business Transformation regarding changes to legislation (and proposed changes) affecting Hackney Carriage and Private Hire licensing.

The Lead Licencing Officer explained that the purpose of the report was to inform the Committee of proposed changes to the Hackney Carriage and Private Hire licensing process as a result of the Policing and Crime Bill and the Immigration Act 2016.

The officer informed the Committee that the new legislation would mean officers checking the immigration status to work in this country for both new applicants and current licence holders. Officers had undertaken Home Office training and were having to re-send some application forms that had already been sent out due to changes in information required. Officers would need to sit down with applicants and those renewing licences to check documents such as passports, which in the short term would generate a lot of additional work. Some authorities who had already converted to online applications were having to revert back to face to face work.

The Lead Licencing Officer informed Members that it was important to learn lessons from what had taken place in Rotherham. He provided a brief summary of what had been reported about Rotherham Metropolitan Borough Council following investigations that had revealed that over 1400 children had been sexually exploited between 1997 and 2013.

Inspectors had found that Rotherham was behind the times as the licensing service appeared to have few written policies and attempts to draw them up were stymied by interested parties. Inspectors found that the Council's conditions relating to vehicle, driver and operator licences had not changed since 1976, bearing out this contention.

The officer reminded Members that the Mid Devon District Council policy had been reviewed earlier in the year and the document was lengthened to include a number of appendices to ensure the majority of policies and procedures were located in one place. The Policy regarding previous convictions had been greatly expanded and also included 'other relevant information', (not necessarily convictions) that would impact on whether or not someone should be considered fit and proper. The team were currently awaiting new guidance from the Department of Transport and once this was available would once again review the policy to ensure it reflected best practice, in as far as this is possible.

The officer informed Members that the licensing team were looking at introducing training for Hackney Carriage and Private Hire drivers around the safeguarding of

children and vulnerable adults. A further report outlining the specifics of this training would be brought to this committee in the first quarter of 2017 for discussion and agreement.

Discussion took place regarding:

- Taxi drivers were in a position to see a lot that was going on within the district such as a child being transported in a distressed state and should be encouraged to report this;
- The use of the DVLA database to ensure that driving licences were valid.

Note: - Report * previously circulated and attached to Minutes.

16 **PROPOSED CONSULTATION ON THE ADOPTION OF NEW MODEL CONDITIONS AND GUIDANCE FOR DOG BOARDING ESTABLISHMENTS (0.37)**

The Committee had before it a report * from the Director of Corporate Affairs and Business Transformation providing Members with information regarding consultation on the adoption of new model conditions and guidance for dog boarding establishments

The Lead Licencing Officer explained that the Authority was responsible for licensing a number of dog boarding establishments and currently had a set of model conditions in place. These conditions set out the general expectations and requirements for premises and guided officers in carrying out inspections.

The Chartered Institute of Environmental Health (CIEH) had recently issued new model conditions and guidance and this report sought agreement to consult with the trade, a relevant authorised vet and the general public on the adoption of these in 2017.

The authority had granted licences to 8 premises that offered a traditional dog boarding establishment to which the new model conditions would apply.

The current conditions in place, also produced by the CIEH, dated back to 1995.

The document was similar in concept to previous CIEH model conditions that had been adopted by the authority and covered areas such as the construction of the premises (from design to build), types of material that should be used, kennel size, areas for exercise, diets, interactions between dogs and general health and welfare issues.

The officer explained that at this point the Licencing Team wished to consult with those that were licenced, a vet duly authorised to undertake inspections under the Animal Boarding Establishments Act 1963 as well as the public via our website, to get views on the proposed conditions. It was hoped that this would provide a better understanding of the implications of the new conditions before deciding firstly, whether or not to adopt or amend them and secondly, to establish a timeline for premises to comply (if they were to be adopted).

He informed the Committee that by consulting in early 2017 a clear agreement could be in place before animal boarding licences were required to be renewed as all licences expired at the end of the calendar year as a result of the legislation.

Discussion took place regarding:

- Dog day crèches and the increase in their popularity;
- Less traditional facilities that allowed dogs to mix rather than being contained within a kennel;
- An action plan that would be put in place to allow establishments time to reach the required standards;
- Establishments within Mid Devon that were not licenced and education that was required regarding this;
- The requirement to check both premises and licence holder;
- The frequency of inspections.
- There were no licences for day crèche facilities and this was something that Devon Authorities were working together to look into;
- The level of fees and the need for them to be cost neutral.

It was **RESOLVED** that;

- a) The Licensing team consult the existing licensed trade; a relevant authorised Vet and the general public (via the Council's website) on the new 'Model Licence Conditions and Guidance for Dog Boarding Establishments 2016' for a period of 12 weeks from January 2017.
- b) Following the completion of this consultation a further report be brought to this Committee setting out the responses received and providing a recommendation of proposed action (i.e. to adopt, not adopt or amend the proposed conditions and guidance).

(Proposed by Cllr T G Hughes and seconded by Cllr J L Smith)

Note: - * Report previously circulated and attached to Minutes.

(The meeting ended at 3.06 pm)

CHAIRMAN