

LICENSING PANEL

9 October 2014

PRESENT: Councillors Asghar Majeed (Chairman), George Bathurst, Carwyn Cox, Geoffrey Hill, David Hilton, Maureen Hunt, Sayonara Luxton and Derek Sharp.

Officers: Alan Barwise, Elaine Brown and Robert Cowan.

PART I

10/14 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Natasha Airey, Phillip Bicknell, Tom Bursnall, John Fido and Charles Hollingsworth.

11/14 DECLARATIONS OF INTEREST

None

12/14 MINUTES

RESOLVED: That the minutes of the meeting of the Panel held on 31 July 2014 be approved.

13/14 AMENDING RBWM'S HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SYSTEM

The Panel received a report from Alan Barwise, Licensing Manager, on behalf of Steve Johnson, Enforcement Principal, regarding amending RBWM's Hackney Carriage and Private Hire Penalty Points Scheme. The report was concerned with proposed amendments to RBWM's Penalty Points System for Hackney Carriage and Private Hire drivers.

At the previous Licensing Panel meeting in July 2014, Members resolved to authorise consultation with the trade about proposed amendments to the taxi and private hire penalty points system. The existing penalty points system was attached to the report as Appendix A and the proposed new system, agreed by Members at the July Panel for consultation purposes, was attached as Appendix B.

Mr Barwise informed the Panel that consultation had taken place with the Trade and one response had been received from the GMB Trade Union, this was attached at Appendix C.

The Panel was reminded that a number of complaints had been received regarding hackney carriages parking on double yellow lines in Windsor. The Council had

limited powers to stop this as drivers would move their vehicles as soon as they saw a warden thereby avoiding a parking ticket. However the new amendments to the scheme included the ability to issue fixed penalty notices to those breaching the rules. Hackney carriages could park on the ranks however it had to be restricted to avoid blocking other motorists and buses. Businesses in Windsor had complained that the taxis also park in the loading bays and in the limited spaces in front of their shops.

Although this change was the catalyst for amending the scheme, it had been appropriate to consider other amendments. Amendments also took account of the High Court case *Singh v Cardiff County Council*.

Mr Barwise stated that he felt the drivers had gone too far in their response, suggesting immediate suspensions would arise as a result. It was noted that RBWM responses to breaches of the rules would need to be reasonable and proportionate. It was noted that in the past, taxi drivers had been summoned before to the Panel when they had 12 points and had had their license revoked. Appendix B of the report listed the possible offences under the scheme.

Councillor Carwyn Cox stated that the recommendation should be amended to read "Members resolve to adopt the amended penalty points system with effect from 1st November" instead of "Members resolve to adopt the amended penalty points system with effect from 1st November after giving due consideration to the representations made". This effectively removed the section "after giving due consideration to the representations made" as this had taken place in the debate.

Councillor David Hilton stated the recommendation should read "Members resolve to adopt the amended penalty points system with effect from 1st November after having given due consideration to the representations made". Councillor Cox agreed with this change.

Councillor Cox highlighted that there was overlap with the comments in appendix C and recommendations of the law commission, however these were just recommendations and not yet law. Mr Barwise stated that, based on his experience working in taxi law for over sixteen years, he believed the law was unlikely to change, especially with an election on the horizon.

Councillor Maureen Hunt noted that taxi drivers did not believe it was their fault that they were parked on double yellow lines. She suggested the Council should look at why they were parking on double yellow lines and whether they could park somewhere else. She noted that if there was a need this needed to be taken on board and provide something rather than just penalise taxi drivers. Mr Barwise stated that other Councils such as Reading Council had similar problems and were using a similar scheme. He stated that drivers parked on double yellow lines as they needed to make a living Thames Street Rank was the biggest attraction to them which had space for 13 vehicles. A 54 metre rank under the arches at Goswell Hill had been advertised. This was an area which needed provision and did not interfere with

residents and local businesses. Councillor Hunt noted that the Coach House rank was quite a distance from the town centre. Further taxi ranks were available at the King Edward VII car park which was described as a useful holding area. Taxis could park in any of the parking spaces after 6pm.

Councillor Hilton stated the hackney carriage drivers response believed private hire taxis were at fault, not the hackney carriages. Therefore, they shouldn't have any issue with this part of the system and they had no reason not to support the amendments.

Councillor George Bathurst stated there was a lot of grief in Windsor Town Centre due to hackney carriages not parking on ranks. He noted that the Council was trying hard to accommodate them. However, there was a need to penalise those who did not abide by the rules.

Councillor Cox believed a balance needed to be struck between providing a suitable amount of taxis ranks as well as ensuring it was not detrimental to residents and businesses.

It was noted that it was impossible for the penalty point scheme to award points to someone who was not an existing taxi driver, however the Justice and Public Order Act 1994 s.167 provided that it was a criminal offense to, in a public place, solicit persons to hire vehicles to carry them as passengers. The reason this was so serious was an illegal taxi driver could be a rapist in waiting. Suspicious vehicles could be reported to the Licensing Team and if the vehicle was not registered the information would be passed onto the police.

It was noted that operators would be penalized if they allowed an unlicensed driver to drive a private hire vehicle. If an operator accumulated 12 points it was open to Members to decide whether the operator was fit and proper person to operate. The Panel agreed that points had to be accumulated within a rolling 12 month period. Councillor Hilton suggested officers should report back after 1 year to update the Panel as to how many drivers had broken the 12 point rule.

Councillor Bathurst noted that an emerging issue was enforcement. He questioned how success was measured. Mr Barwise informed the Panel that success would be measured by the whether or not complaints were received. If no complaints were received the scheme was to be considered successful.

The Panel unanimously voted in favour of the report recommendation subject to the amendment of Cllr Cox to include "after having given due consideration" and the clarification that 12 months was rolling and not the calendar year. The Panel also unanimously agreed to officers reporting back to the Panel with regards to how many drivers had accumulated 12 points.

RESOLVED: That Members adopt the amended penalty points system with effect from 1st November after having given due consideration to the representations made.

RESOLVED: That Officers report back to the Panel after 12 months with an update on how many drivers had broken the 12 point rule.

14/14 LICENSING POLICY STATEMENT

The Panel received a report from Alan Barwise, Licensing Manager, on behalf of Steve Johnson, Enforcement Principal, regarding the Licensing Policy Statement.

The report stated that the council was required to update its Licensing Policy to come into effect on 5th January 2016. At the previous Licensing Panel meeting in July 2014, Members had approved a process and timetable which would bring the new policy into effect. In line with that timetable, Members were asked to approve a first draft of the new policy and to authorise the commencement of the required consultation process.

It was noted that a further report on this item was due in April 2015, however it was noted that a timely production of the report would be unlikely given that a local election would take place at that time.

It was noted that many subtle changes had been made since the draft had first been issued. The draft policy statement included the Council's new licensing/planning protocol, the procedure sheet followed at sub-committee hearings, and a new definition of regulated entertainment following the introduction of the Live Music Act.

Mr Barwise noted that licensing enforcement was more efficient at making effective change than planning. For example, licensing enforcement could prosecute with a punishment of 6 months in prison or a £20,000 fine. However, Councillors Hunt and Hilton disagreed with this assessment believing planning to be stricter.

The Panel understood that new applicants would be listed on the RBWM website and ward councillors informed of the application. Members of neighbouring wards would also be informed.

Councillor Sayonara Luxton believed commercial waste should be considered by the policy. Mr Barwise stated that there had to be public nuisance and that commercial waste was not normally something they needed to look at. Ms Browne highlighted the fact that representations were specific to each application. Mr Barwise suggested the following wording, "where there are representations about public nuisance being caused by waste, then the Council will expect there to be something to be in place, in policy or conditions, that would take care of that". She noted that

Councillor Cox noted under the Prevention of Public Nuisance draft policy on page 26, there was an existing bullet point for 'litter in the vicinity'. He believed a further bullet point for 'general waste' could be added.

Councillor Bathurst was keen to see a relaxation of conditions in the town centre at civil times, but stricter conditions late at night. It was noted that this was already taken into account where reference was made to 'unreasonable disturbance to residents' with a list of things Members could take into account. Councillor Bathurst believed the wording needed to be explicit to reflect nuisance was worse at 2am than it was at 11pm. Mr Barwise and Ms Brown stated that this would be looked at in more detail by legal officers however it was important to avoid a blanket policy.

Councillor Luxton noted that it was difficult to compel the relevant authorities, such as the police, to attend a sub-committee hearing. Mr Barwise stated that such authorities were entitled to their own point of view and attended when they felt there was an issue.

Councillor Cox noted on page 33 the statement 'young people' was unfair language. Mr Barwise agreed to take 'young' out of the sentence. Councillor Cox also wished for paragraph 2.7 on page 3 to be amended so the report did not come back in April as this would not be practical.

Councillor Bathurst questioned what good looked like. He noted that good would be if there were no police officers present at clubs. He asked if something could be put in the wording to enable policy steer to get clubs not needing police. Mr Barwise stated that was a matter for the police to determine where police officers were deployed. Mr Barwise stated he would look into the suggestion further.

RESOLVED: That Members unanimously approved the draft policy attached to the report and authorised the commencement of the consultation process with the following report to be presented to the Panel at the first meeting after April.

15/14 DATES OF FUTURE MEETINGS

Members noted the dates of the next meetings were noted as:

- 13 January 2015
- tbc

16/14 MEETING

The meeting, which began at 6.00pm, ended at 6.50pm.

Chairman.....

Date.....