

LICENSING PANEL

TUESDAY, 8 JANUARY 2019

PRESENT: Councillors Carwyn Cox (Chairman), Malcolm Alexander, David Hilton, Maureen Hunt, Asghar Majeed, Derek Sharp, Julian Sharpe and Derek Wilson

Also in attendance: Councillor Simon Dudley

Officers: Greg Nelson, Andy Carswell and David Scott

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bhatti, Bicknell, Burbage and Richards. Councillor Alexander had sent apologies as he would be arriving to the meeting late.

DECLARATIONS OF INTEREST

None received.

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the meeting held on July 3rd 2018 be approved as a true and accurate record.

REVIEW AND REPUBLISHING OF RBWM'S GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

Greg Nelson introduced the item and reminded Members that the Council was responsible for publishing a Statement of Principles every three years, and the current Statement was due to expire. This Statement had been reviewed and updated for the period 2019-2022. Members were informed that there were no major changes to the Statement and any amendments were made to make the Statement easier to understand. A list of the proposed changes were listed in the report. Greg Nelson informed Members that no negative feedback had been received from any consultees, which included Thames Valley Police and the Gambling Commission.

Cllr Sharpe asked if this Statement of Principles was similar to those in place at other local authorities. Greg Nelson said all councils followed guidance from the government so Statements were likely to be broadly similar. However some Statements would be different to take into account the management of casinos in a particular local authority area. Which councils could have casinos was set out in legislation and the Royal Borough was not one of those councils.

Regarding the one Adult Gaming Centre Premises Licence in the Royal Borough, Greg Nelson said this differed from Licensed Premises Gaming Machine Permits in that the former only applied to premises which were open to over 18s only. He added he was not sure which premises this licence applied to and he would find out for Members.

Regarding Door Supervisors, listed at point 2.9, Cllr Wilson said he had concerns over whether there were appropriate checks in place to test if a door supervisor was a reasonable character to carry out their duties. He gave the example of Levi Bellfield, who had previously been employed as a door supervisor at a premises in Maidenhead. Greg Nelson stated that if a door supervisor was deemed necessary, there was a requirement that they would need to be SIA registered as this was the only way to be certain door supervisors had passed the relevant checks. Members agreed that it should be a requirement that all door supervisors

employed in the Royal Borough should be registered and licensed with the SIA. Greg Nelson stated that no licensed gambling premises in the Royal Borough employed door staff as it had not been deemed necessary. However if it was felt that a premises was failing to meet the key licensing objectives then there may be a requirement for them to have door supervisors, and the premises would subsequently be tested for compliance.

Regarding vulnerable people, as outlined at point 2.7.3.1, Greg Nelson stated that the Council would do what it could to help anyone identified as a problem gambler. He stated his belief that local operators were responsible and would take steps to help problem gamblers. Members were told that it would be the premises that identified vulnerable people and problem gamblers, who would then inform the Council in order for them to take the appropriate action. Any bans would need to be implemented by a licensed premises as the Council did not have the power to do this.

RESOLVED UNANIMOUSLY: That the Licensing Panel noted the report and recommended to Full Council that the RBWM Gambling Act 2005 Statement of Principles 2019-2022 be adopted, subject to an amendment to point 2.9 stating that all door supervisors should be licensed with the SIA.

THE USE OF PENALTY POINTS TO DEAL WITH OVERCHARGING

Greg Nelson informed Members that evidence of hackney carriage and private hire drivers overcharging customers by charging more than the appropriate tariff, or a greater amount than originally quoted, had been reported to the Council and subsequently proven with test purchases. A system of penalty points existed to combat this as an alternative to taking out a criminal prosecution against a driver, as this was expensive and not necessarily always in the public interest. Members were reminded that it can be a criminal offence to overcharge a customer for a journey, and in respect of hackney carriages the offence was to charge more than the set tariff for journeys wholly within the Borough.

Members were informed that one way of combatting this type of overcharging was to make it compulsory for hackney carriages to have a taximeter fitted, and then to make it compulsory for the drivers to use the taximeter for all journeys that are wholly within the Borough. Contrary to popular belief, it was not a requirement for drivers to display their meter at all times on journeys that were not wholly within the Borough. However Members were informed that all hackney carriage vehicles were fitted with a meter.

Cllr Dudley informed Members that he had asked for this issue to be raised as residents had made him aware of examples of hackney carriages and private hire vehicles overcharging, and that there was a particular problem of younger residents being charged more for late night journeys from Windsor to Maidenhead. Of seven test purchases reported on to Cabinet five had overcharged in some way; either a hackney carriage using the wrong tariff or a private hire vehicle charging more than a quoted price. In some, but not all, cases the passenger had asked why the meter was not displayed. Members were informed that the late tariff started after 11pm; if a journey crossed over the tariff change time, then the earlier tariff time must be used as this was the correct one at the time the journey commenced.

Members were informed that any driver accruing 12 penalty points would automatically be referred to a Panel. Greg Nelson informed Members that this had happened only once, when a driver had been spotted using a disabled bay twice in quick succession and received six points for each offence. On this occasion the driver had been told to complete an awareness course on disabled drivers at his own expense, which he had done so. This had been the recommendation made by licensing officers to the Panel, indicating that appropriate and proportional penalties could be applied as an alternative to suspension or revocation of a licence. Members were informed that the use of penalty points was common practice at many other local authorities, and was unlikely to be subject to a successful Judicial Review challenge.

Cllr Hunt suggested that all hackney carriages should be fitted with additional signage stating that charges for journeys wholly within the Royal Borough would be based on the meter reading, to act as a reminder to drivers and as an informative to passengers. This was agreed by Members. David Scott suggested that something to raise awareness of this, including use of social media channels and the press, be implemented.

Responding to a question from Cllr Alexander, Greg Nelson stated that calibration of meters for Royal Borough hackney carriages was done by an independent company. These were not done on an annual basis but were considered to be robust. Greg Nelson said he had not seen any indication that any meters were being reset or tampered with; however Cllr Alexander said that at his previous local authority, tests had shown that 15 per cent of all meters tested had been extremely inaccurate.

Regarding how many penalty points to apply to the offences listed in the appendix of the main report, Greg Nelson said that using 12 penalty points would mean that the driver would be immediately referred to Panel. This would then allow drivers to offer mitigating circumstances. It also highlighted to drivers that the Council was not prepared to tolerate the practice of overcharging customers. Members agreed that overcharging needed to be stamped out and agreed to the use of 12 penalty points for the infringements listed at points 4 and 5 of appendix B of the main report.

Regarding refusal of a hackney carriage driver to take a fare for a journey wholly within the Royal Borough, Greg Nelson gave a case study example of a woman who had been refused by four drivers waiting at the rank at Windsor Riverside railway station. Greg Nelson reminded Members that refusing to take a fare for a journey wholly within the authority area where a vehicle was licensed was a criminal offence, and therefore it was also recommended that 12 penalty points should be applied in these instances. This offence was serious because of the risk to public safety of passengers who were refused by drivers, whereas overcharging was considered worthy of a 12 point penalty because it was tantamount to theft. Referral to Panel would then mean Members could determine if the driver had "reasonable excuse" to refuse the fare, as set out in the Policy and Conditions. It was therefore agreed to apply 12 penalty points for the offences listed at point 6 of appendix B of the main report.

Regarding overcharging by hackney carriage drivers, Greg Nelson stated that it was harder to do test purchases of drivers known to overcharge as customers had to take the next one on the rank. With regards to private hire drivers, Greg Nelson stated that he had only been made aware of three instances of overcharging by a private hire driver within the past three years. In these cases it was easier to identify the driver as the taxi company was obliged to keep records of which drivers had been sent out on which jobs. Members unanimously agreed that 12 penalty points should be applied to the offences listed at point 1 of appendix C of the main report to ensure consistency across private hire and hackney carriage drivers.

Members were reminded that the proposed amendments would need to go out to consultation. A four week consultation was planned, with a view to implement the changes straight away afterwards unless there was sufficient feedback to warrant the report coming back to Licensing Panel.

RESOLVED UNANIMOUSLY: That the Licensing Panel noted the report and:

i) Authorised the Head of Communities, Enforcement and Partnerships to consult with the trade about adding the infringements listed in Appendix B and Appendix C to the Penalty Points System in the RBWM Hackney Carriage Driver and Vehicle Policy and Conditions and the Private Hire Driver and Vehicle Policy & Conditions respectively, and for 12 penalty points to be applied in each instance.

ii) Delegated authority to the Head of Communities, Enforcement and Partnerships in consultation with the Lead Member and the Chair of the Licensing Panel to implement the changes set out, including the additional changes of all motorised hackney carriage

being required to display their meters at all times for journeys wholly within the Royal Borough and for signage informing passengers and drivers to this effect to be displayed, subject to a review of the outcomes of the consultation process.

DATES OF FUTURE MEETINGS

Members noted the next meeting of the Licensing Panel would be Tuesday April 2nd. It was noted that the meeting would take place during the Purdah period before the local elections.

The meeting, which began at 6.00 pm, finished at 7.11 pm

CHAIRMAN.....

DATE.....