
Licensing and Regulatory Committee



St Edmundsbury
BOROUGH COUNCIL

Minutes of a meeting of the **Licensing and Regulatory Committee** held on **Tuesday 17 May 2016** at **5.00 pm** in **the Conference Chamber West (F1R 09), West Suffolk House, Western Way, Bury St Edmunds**

Present: **Councillors**

Chairman Frank Warby

Tony Brown Richard Rout
Sara Mildmay-White Peter Thompson

Substitute attending:

Patricia Warby

By Invitation:

John Burns and
Susan Glossop

29. **Apologies for Absence**

Apologies for absence were received from Councillors Sarah Broughton, Terry Buckle, Bob Cockle, Wayne Hailstone, Beccy Hopfensperger, Clive Springett and Sarah Stamp.

30. **Substitutes**

The following substitution was announced :

Councillor Patsy Warby for Councillor Sarah Stamp.

31. **Minutes**

The minutes of the meeting held 2 February 2016 were confirmed as a correct record and signed by the Chairman.

32. **Public Participation**

There were no members of the public present.

33. Minutes of the meeting of the Licensing and Regulatory Sub-Committee

The minutes of the meeting of the Licensing and Regulatory Sub-Committee held 19 April 2016 were confirmed as a correct record and signed by the Chairman.

34. Adoption of Conditions in respect of the Hypnotism Act 1952

The Committee considered Report LIC/SE/16/002 (previously circulated) which sought approval to the introduction under the Hypnotism Act 1952 of conditions to be attached to Public Entertainment Licences in respect of stage hypnotism performances. The proposed conditions were attached as Appendix 1 to the report. Home Office Guidance to Licensing Authorities on the application of the provisions of the Hypnotism Act 1952 was attached as Appendix 2.

The report informed the Committee that an enquiry from a stage hypnotist to conduct a live performance in West Suffolk Officers had identified that, at present, neither St Edmundsbury BC or Forest Heath DC had an adopted set of model conditions. Standard conditions had been applied to Public Entertainment Licences prior to the Licensing Act 2003. However, as a display of public hypnotism was not a regulated activity under that Act this means of control had been removed.

The Hypnotism Act 1952, as amended, empowered licensing authorities to attach conditions to Public Entertainment Licences to regulate or prohibit the giving of an exhibition, demonstration or performance of hypnotism.

The Act made it a criminal offence for hypnotism to be conducted for public entertainment unless authorised by the licensing authority. It also imposed a restriction on anyone under the age of 18 being hypnotised. It was open to the licensing authority to attach such conditions as it thought fit when authorising a display of hypnotism. The proposed conditions listed in Appendix 1 followed the model scheme contained in Guidance issued by the Home Office and included a requirement that authorised Officers were to be admitted to the premises where hypnotism was to be conducted to allow for inspection. The report acknowledged that the licensing authority had a duty to safeguard and protect the general public but that this should be balanced to allow reputable hypnotists to carry out performances with due regard to the guidance available.

RESOLVED - That :

(1) the conditions attached as Appendix 1 to Report LIC/SE/16/002 be adopted and applied to licences granted under the Hypnotism Act 1952; and

(2) delegated authority be given to the Licensing Manager, or equivalent Officer, to determine any future applications under the Hypnotism Act 1952 and to authorise any proceedings under the Act.

35. Training for Hackney Carriage and Private Hire Vehicle Drivers

The Committee considered Report LIC/SE/16/003 (previously circulated) which sought approval of a proposal that consultation be carried out in respect of a training requirement for all taxi drivers that they complete the Business & Technology Education Council (BTEC) Level 2 Certificate: Introduction to the Role of the Professional Taxi and Private Hire Driver. A prospectus of a proposed training course towards this qualification offered by a third party was attached as an Exempt Appendix to the report and was received and noted but not discussed by the Committee.

The report drew attention to the guidance to Councillors issued by the Local Government Association in respect of Taxi and Private Hire Vehicle (PHV) Licensing to the effect that Members had a responsibility for ensuring that the public travelled safely and received a good level of service and that Council vetting systems ensured that only good, reputable drivers were attracted.

Reference was made in the report that there had been recent examples nationally of taxi operators and drivers being involved in the sexual exploitation of children and that elderly and disabled users relied heavily on the door to door services taxis and PHV's provided. It was essential therefore that responsibilities were taken seriously when determining whether applicants were 'fit and proper persons' to hold or continue to have a licence.

The Council's 'fit and proper person' test currently included :

- (a) Criminal records check via the Disclosure and Barring Service (DBS);
- (b) Driving history check via the Driver and Vehicle Licensing Authority (DVLA);
- (c) Medical check supplied by the applicant's own General Practitioner; and
- (d) Successful completion of the Driving Standards Agency (DSA); assessment; or the Institute of Advanced Motorists (IAM) advanced driver test; or the Royal Society for the Prevention of Accidents (RoSPA) advanced driver test.

The report advised the Committee that recently there had been an increase in complaints about the conduct of drivers. The Chairman referred to a recent case heard by the Sub-Committee which had resulted in the revocation of a driver's licence for a series of incidents of misconduct. This had highlighted a need to improve the knowledge, training and skills of licensed drivers and new applicants and that the current prerequisites to granting a licence were inadequate. Many licensing authorities were now requiring drivers to obtain a qualification and this had been endorsed by the Department of Transport.

A proposed syllabus for the course leading to the qualification was set out in paragraph 1.11 of the report. It was possible for the course to be available over 3 days (Saturdays) or over 6 evenings. Applicants and existing drivers would be expected to bear the cost involved although the possibility of Government funding for certain cases was being investigated

A more detailed report on how the scheme could operate would be submitted to the Committee following the consultation exercise.

In response to Members' questions Officers advised as follows :

(i) an applicant or existing driver who had gained the qualification elsewhere in the UK would not be required to re-take it ; and

(ii) as far as was known there were no equivalents to the BTEC qualification although there may be others of a higher standard.

In discussing the proposal some members reported that from informal discussions they had with drivers there had been indications that they were supportive of the idea. There was a divergence of views about whether the requirement to obtain the qualification should apply to all, i.e. both existing and prospective drivers. Some members were of the view that it may be unreasonable to require longstanding licence holders who had operated in a satisfactory way to obtain the qualification retrospectively, albeit it may be necessary to impose it as a sanction in cases of misconduct. Additionally there were drivers who operated solely on a part-time voluntary basis and similarly it would seem onerous to place such a requirement upon them. It was also mentioned that some drivers had other jobs outside the taxi trade and only undertook the job as a means of raising extra cash and such persons might find the cost of the training course a barrier. Other Members acknowledged the greater incidence of complaints the Council was receiving from members of the public and therefore the need to raise overall standards which would be achieved by applying the requirement universally.

RESOLVED :

That, subject to consultation and a report back to the Committee, the proposed change in requirements for both new and all current drivers to obtain the BTEC Level 2 Certificate (within a time frame to be set) be supported.

The meeting concluded at 5.40pm.

Signed by:

Chairman
