

Contact Officer: Jenny Bryce-Chan

KIRKLEES COUNCIL

LICENSING AND SAFETY COMMITTEE

Wednesday 1st February 2023

Present: Councillor Amanda Pinnock (Chair)
Councillor Carole Pattison
Councillor Moses Crook
Councillor James Homewood
Councillor Jo Lawson
Councillor Mohan Sokhal
Councillor Adam Gregg
Councillor Karen Allison
Councillor John Lawson

In attendance: Fiona Goldsmith, Public Protection Group Leader
Russell Williams, Operational Manager, Public Protection
David Stickley, Senior Legal Officer

Apologies: Councillor Melanie Stephen
Councillor Adam Zaman
Councillor Paola Antonia Davies
Councillor Andrew Marchington

22 Membership of the Committee

Apologies were received from Councillor Melanie Stephen, Councillor Adam Zaman, Councillor Paola Davies, and Councillor Andrew Marchington.

Councillor John Lawson substituted for Councillor Paola Davies.

2 Minutes of Previous Meeting

RESOLVED: That the minutes of the meeting held on 5th October 2022 be approved as a correct record.

3 Interests

No Interests were declared.

4 Admission of the Public

All agenda items were considered in public session.

5 Deputations/Petitions

No Deputations or Petitions were received.

6 Public Question Time

Question from a Trade representative for Kirklees Hackney Carriage, Huddersfield

“Can Hackney Carriage taxi’s use bus lanes in Kirklees, and how quickly could this be processed?”

A response was provided by Fiona Goldsmith, Public Protection Group Leader.

7 Licensing Services Update

The Committee received a report which provided an update on the activities undertaken by the Council’s Licensing Service from 1st April 2022 to 30th September 2022, along with a general service update.

Fiona Goldsmith, Public Protection Group Leader, advised the Committee that the overriding aim of the licensing service, when carrying out its functions relating to the licensing of hackney carriage and private hire drivers, vehicle proprietors and operators, was the safety of the travelling public and others who used hackney carriage and private hire services.

The number of hackney carriage and private hire licences in force as of 13th December 2022, was 4,948, with the number of applications processed by the service between 1st April 2022 and 30th September 2022, being 2,032.

Vehicle testing between April 2022 to September 2022, had been carried out between George Street testing station and Vine Street testing station, with a higher percentage of failures at George Street testing station. The Panel noted that the reason for a higher percentage of failures at George Street testing station could be due to the higher numbers of vehicles that the station tested.

In November 2022, the service commenced a three-month consultation following the review of the Fitness and Suitability Policy. The consultation is due to end on 15th February 2023, and a report will be presented to a future Committee meeting for a decision.

The Committee was reminded that at the Licensing and Safety Committee meeting held on 2nd March 2022, Members were presented, in a private session, with details in relation to the decisions that had been taken since the adoption of the Fitness and Suitability Policy in August 2019. The Committee requested that Officers bring back a report with decisions that had been made under the policy that could be considered in public.

Ms Goldsmith advised that in response to the Committees request, preparing information for the public domain, whilst giving due regard to General Data Protection Regulations (GDPR) was more challenging than first anticipated. The service has now found an acceptable way to present the information without compromising its duties under GDPR.

Licensing and Safety Committee - 1 February 2023

The information being presented, outlines the decisions and licensing activities that had taken place between 1st April 2022 and 30th September 2022. The Committee was presented with the following:

- that the Licensing Panel had heard five applications between 1st April 2022 and 30th September 2022, with a total of 2,906 applications being received by the service
- In the previous 6-month period, between 1st October 2021 and 31st March 2022, the service received a total of 2,836 applications
- the Licensing Team and the Police Licensing Officers based with the service worked closely with Trading Standards. Visits to premises were conducted when intelligence was gathered by Trading Standards to suggest there had been the sale of illicit tobacco at a premises. While every premises visited was licensed, it was important that Members were aware that trading standards did work in partnership with the service and enforcement action was taken
- In July 2022, visits were carried out at three premises in Huddersfield and South Kirklees and three visits to premises in Dewsbury
- Licensing Officers undertook proactive enforcement activities outside normal working hours which varied from licensed vehicle checks, licensed operator-based checks, licensed driver checks, premises licence compliance checks and gambling premises compliance checks
- Officers carried out 29 out of hours proactive enforcement duties, as part of the service role to keep the public safe. They had also worked with the Police in an undercover test purchase operation relating to Child sexual Exploitation.

RESOLVED:

That the Licensing Service update report be noted.

8 Decision Making - Hackney Carriage and Private Hire

The Committee received a report on the consultation for the Department for Transport's Statutory Standards, specifically relating to decision making for the hackney carriage and private hire service.

Fiona Goldsmith, advised the Committee that the current decision making for hackney carriage and private hire licensing was delegated to the Group Leader, Licensing, however, the guidance issued by the Department for Transport, recommended that decision making should be the responsibility of a panel of suitably trained elected members.

The results of the consultation showed that many respondents agreed that the decision making should not be the sole responsibility of one person, with a number

Licensing and Safety Committee - 1 February 2023

of comments suggesting that other persons, such as trade representatives, a group of leaders, DVLA, and the private hire operator the driver worked for should be part of the decision-making process.

The Committee was informed that involvement of other the persons suggested, would not be an option due to sensitive and personal information disclosed and would be a breach of General Data Protection Rules.

The Committee was reminded that, at a previous Licensing and Safety Committee, Officers were instructed to investigate possible options relating to decision making and the implications for those options and present a more detailed report at a future meeting. At the meeting, the following options for decision making were presented to Committee:

- A Members Panel
- An Officer Panel
- Decisions to remain with the Group Leader for Licensing

The Committee resolved that decisions should for the time being, remain with the Group Leader for Licensing while officers undertake further work to investigate the following options:

- A Members Panel
- An Officer Panel
- Decisions to remain with the Group Leader for Licensing
- A hybrid panel with both Officer and Member involvement

Ms Goldsmith advised that Governance had been consulted regarding the proposed hybrid option, due to the possibility of Member involvement in decision making and confirmed that governance support would be provided to a committee where Members were the decision makers.

The Chair of the Committee read an email from GMB Trade Union which advocated that that it was essential that Kirklees adopted the Department for Transport recommendations, as checks and balances were needed to be put in place to ensure that decision were fair from a driver and the general public's perspective.

During the discussion, the Committee raised concerns with regard to the potential costs to taxi drivers, potential costs to the Council, resource implications, complaints when the applications were previously considered by a Members Panel. In addition, concerns were raised regarding, identifying officers and Members to sit on the Panels, making decisions against the DfT guidance, scrutinising the decisions, and delays in processing the applications.

Councillor Mohan Sokhal proposed, and Councillor James Homewood seconded that the meeting be adjourned to allow officers to undertake further work on the concerns raised and to bring back their findings for consideration at a future meeting.

RESOLVED:

That:

- (i) the decision regarding the decision-making process relating to hackney carriage and private hire be deferred to allow officers to undertake further work and bring this back for consideration at a future meeting of the Licensing and Safety Committee,
- (ii) Officers liaise with other West Yorkshire Local Authorities to explore the reason and rationale for deviating from the Department for Transport guidance on hackney carriage and private hire decision making responsibilities,
- (iii) further information be provided on the process that would be undertaken for an officer panel and a hybrid panel,
- (iv) an estimate of the cost and timescale on each of the four options be produced,
- (v) information on the resource implications, including the workload for members and officers be produced for each of the four options.

9 Terms of Reference for Hackney Carriage and Private Hire Association Meetings

The Committee received a report which requested approval of the proposed terms of reference for hackney carriage and private hire association meetings.

Fiona Goldsmith, advised that a Licensing and Safety Committee meeting took place on 17th December 2020, informing Members that the Licensing Service would introduce more formal and structured association meetings with the trade.

The Licensing Service had successfully established regular hackney carriage working group meetings, however, previous take up from the private hire trade was low. Work had been ongoing to encourage the private hire trade to engage with the meetings. The Service worked with the hackney carriage association to produce the proposed terms of reference which goes into detail about what the Council expects from the trade but also what the trade can expect from the Council. Members were asked to consider the decision about the status of a trade representative in the event their behaviour was deemed unacceptable, or whether more detail was required.

It was noted that the terms of reference had been circulated to the newly established private hire association members and trade unions, namely, GMB, Unison and Unite for comments. GMB had responded by stating that they had for some time now been promoting the GMB charter and this should be considered in line with any terms of reference to ensure there was no conflict. GMB had also been working on a constitution for private hire drivers and had provided a draft document for consideration.

The Committee was asked to clarify the level of Member involvement within the association meetings, and Cllr Amanda Pinnock confirmed that she did attend the meetings in her capacity as Chair of the Licensing and Safety Committee. Ms Goldsmith advised that officers had received requests from Ward Councillors who

Licensing and Safety Committee - 1 February 2023

did not sit on the Licensing and Safety Committee to also attend the meetings. The Committee deemed that it would not be appropriate for ward councillors to attend the meetings unless requested to do so by the trade and for observatory purposes only.

RESOLVED:

That:

- (i) the report be noted by the Committee,
- (ii) the proposed terms of reference be approved with the addition of section 2.7 as set out in the report,
- (iii) the charter provided by the GMB union shows that there is no conflict with the proposed terms of reference,
- (iv) officers liaise with the GMB union, Leeds, and other West Yorkshire authorities to try and standardise across the region,
- (v) the responsibility for making any changes to the Terms of Reference in future, be delegated to officers in conjunction with the Chair of the Licensing and Safety Committee,
- (vi) Members, other than the Chair of Licensing and Safety Committee only being permitted to attend the association meetings at the explicit request of the trade and for observatory purposes only.