

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Committee held at 10.00 am
on Tuesday, 14 November 2017

Present:

Members: Councillor T Khan (Chair)
Councillor J Birdi
Councillor J Clifford
Councillor G Crookes
Councillor D Gannon
Councillor L Harvard
Councillor D Kershaw
Councillor A Lucas
Councillor T Mayer
Councillor R Thay
Councillor S Walsh

Employees (by Directorate):

Place C Bradford, N Castledine, T Johnson, N Woodward

Apologies: Councillor B Kaur, G Ridley and C Thomas

Public Business

31. Declarations of Interest

There were no declarations of interest.

32. Minutes

The minutes of the Committee meeting held on 17 October 2017 and the Sub-Committee hearing held on 9 October 2017 were agreed and signed as a true record.

33. Exclusion of Press and Public

RESOLVED that, under Section 1004(A) of the Local Government Act 1972, the public be excluded from the meeting for the item of business indicated below on the grounds that those items involve the likely disclosure of exempt information, as defined in Schedule 12A of that Act, in particular those paragraphs of Part 1 of the Schedule as indicated:

Minute No.	Subject	Relevant Paragraph of Part 1 of Schedule 12A
38	Non-compliance with Food Hygiene Improvement Notice	7

34. Outstanding Issues Report

There were no outstanding issues.

35. Proposed Amendment to the Constitution: Revocation of Hackney Carriage and Private Hire Driver's Licences

The Committee considered a report of the Director of Finance and Corporate Services which proposed an amendment to the Constitution in relation to the revocation of hackney carriage and private hire driver's licences.

Under the current Scheme of Delegation to Officers, the Deputy Chief Executive (Place) and the Senior Licensing and Enforcement Officer have delegated powers to suspend a hackney or private hire driver's licence where it is necessary that immediate steps be taken in the interests of public safety. Any such decisions would be taken in consultation with the Chair of the Licensing and Regulatory Committee (or in his/her absence, the Deputy Chair or in the absence of either, the City Solicitor). This provision had been used by officers to suspend a driver following serious allegations of impropriety or criminal behaviour and pending the Committee's decision whether to revoke the licence.

However, case law has confirmed that the power to suspend a licence under Section 61 of the Local Government (Miscellaneous) Provisions 1976, is a final decision on the question of a person's fitness and propriety. It cannot be used as an interim measure pending further investigation into a driver's conduct.

This meant that if officers believed that an allegation is so serious that the driver should not be allowed to drive pending an investigation, they cannot suspend the licence. The only options are:

- (a) To allow the driver to continue to drive pending the matter coming before the Committee, which could be some time; or
- (b) Delegate power to officers to revoke a licence where public safety requires it, the driver would still have a right of appeal.

The report recommended changes to the Hackney Carriage and Private Hire Licensing Scheme of Delegation, which forms part of Part 2M of the Constitution to permit officers to revoke drivers' licences where public safety required it.

The proposed change was considered by the Constitutional Advisory Panel at its meeting on 9 October 2017 who recommended the Cabinet Member to approve the change. Powers are delegated to the officers under the licensing scheme of delegation by the Licensing and Regulatory Committee and therefore, the Committee was requested to agree the change. The Cabinet Member had approved the change at his meeting held on 26 October 2017 subject to the agreement of the Licensing and Regulatory Committee.

It was recommended that the current delegations to officers at paragraph 6.6.66 of Part 2M of the Constitution be amended as per the following:

1.3 Suspension of Licence

To suspend where a driver is disqualified from driving during the term of a licence issued by the City Council and the driver's DVLA licence will be restored during that term.

1.4 Revocation of Licence

To revoke where:

- (a) A driver is disqualified from driving during the term of a licence issued by the City Council and where the driver's DVLA licence will not be restored during that term; or*
- (b) In the opinion of the Senior Licensing and Enforcement Officer in consultation with the Chair of the Licensing Committee (or in his/her absence the Deputy Chair or in the absence of either, the City Solicitor) it is necessary that immediate steps be taken to revoke a licence in the interests of public safety.*

There would still be a requirement for the officer to consult with Chair of the Committee in the event that revocation was required. Drivers would continue to have the right of appeal a decision to revoke and if, once the investigation was completed, it was considered that revocation was not justified, arrangements would have to be made to reissue the licence.

RESOLVED that the Licensing and Regulatory Committee:

- 1. Approves the proposed change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and**
- 2. Recommends full Council that they agree to its being included in the Constitution.**

36. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved

There were no other items of urgent public business.

PRIVATE BUSINESS

37. Non-Compliance with Food Hygiene Improvement Notice

RESOLVED that, having considered a report of the Deputy Chief Executive (Place):-

- 1) The Council Solicitor be authorised to institute legal proceedings under (EC) No 852/2004 on the Hygiene of Foodstuffs and associated regulations against appropriate persons in respect of the alleged non-compliance with Food Hygiene Improvement Notice served on Dairy**

Farm Ltd, Kwik Form Building Unit 9, Hales Industrial Park, Rowleys Green Road, Coventry.

- 2) That authority be delegated to the Director of Streetscene and Regulatory Services to authorise legal proceedings for any further offences which may come to light before the case under consideration has been resolved in court.**

(NOTE: The Committee having been informed that the results of the latest test sample were still outstanding, requested that should the results come back clear, a further report be submitted to Committee for consideration.)

- 38. Any other items of private business which the Chair decides to take as matters of urgency because of the special circumstances involved**

There were no other items of urgent private business.

(Meeting closed at 11.00 am)