



Licensing and Regulatory Committee

Time and Date

10.00 am on Tuesday, 14th November, 2017

Place

Diamond Room 2 - Council House

Public Business**1. Apologies****2. Declarations of Interest****3. Minutes** (Pages 1 - 6)

To agree the minutes of the Committee meeting held on 17 October 2017 and the Sub-Committee hearing held on 9 October 2017

4. Exclusion of Press and Public

To consider whether to exclude the press and public for the items of private business for the reasons shown in the reports.

5. Outstanding Issues Report

There are no outstanding issues to report.

6. Proposed Amendment to the Constitution: Revocation of Hackney Carriage and Private Hire Driver's Licences (Pages 7 - 14)

Report of the Director of Finance and Corporate Services

7. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**Private Business****8. Reports of the Executive Director of Place**

8.1 Non-Compliance with Food Hygiene Improvement Notice (Pages 15 – 22)

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

Martin Yardley, Executive Director, Place, Council House Coventry

Monday, 6 November 2017

Note: The person to contact about the agenda and documents for this meeting is Usha Patel/Carolyn Sinclair Tel: 024 7683 3198/3166

Membership: Councillors J Birdi, J Clifford, G Crookes, D Gannon, L Harvard, B Kaur, D Kershaw, T Khan (Chair), A Lucas, T Mayer, G Ridley, R Thay (Deputy Chair), C Thomas and S Walsh

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting OR if you would like this information in another format or language please contact us.

Usha Patel/Carolyn Sinclair

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Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Committee held at 10.00 am
on Tuesday, 17 October 2017

Present:

Members: Councillor T Khan (Chair)
Councillor J Birdi
Councillor G Crookes
Councillor Gannon
Councillor L Harvard
Councillor B Kaur
Councillor D Kershaw
Councillor Lucas
Councillor T Mayer
Councillor G Ridley
Councillor R Thay (Deputy Chair)
Councillor S Walsh

Employees (by Directorate):

Place: S Beechey, S Bennett, A Harwood T Johnson

Apologies: Councillors J Clifford and C Thomas

Public Business

23. Declarations of Interest

Councillors Crookes, Harvard and Mayer declared an 'Other Interest' in the matter referred to in Minute 28 below relating to "Underage Sale of Cigarettes, Counterfeit and Illegal Cigarettes". The interest arose as they had sat on the Sub-Committee Hearing held on 26 September, 2017, that considered an application to review a Premises Licence. They withdrew from the meeting during consideration of this item

24. Minutes

The minutes of the Committee meeting held on 22 August, 2017 and of the Sub-Committee hearing held on 26 September, 2017 were agreed and signed as true records.

25. 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 items 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
28	Underage Sale of Cigarettes, Counterfeit and Illegal Cigarettes	7
29	Application for the Grant of a Hackney Carriage Driver's Licence	1 and 3

26. Outstanding Issues Report

There were no outstanding issues.

27. Any Other Items of Urgent Public Business

There were no other items of urgent public business.

Private Business

28. Underage Sale of Cigarettes, Counterfeit and Illegal Cigarettes

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

- 1) **The Council Solicitor be authorised to institute legal proceedings under Section 7 of the Children and Young Persons Act 1933, Regulation 48 of the Tobacco and Related Products Regulations 2016, the Consumer Protection from Unfair Trading Regulations 2008 and the Trade Marks Act 1994 against appropriate persons in respect of the underage sale of cigarettes, counterfeit and illegal cigarettes at Qadz Local, 1A Heath 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: Councillors Crookes, Harvard and Mayer withdrew from the meeting during consideration of this matter).

29. Application for Grant of a Hackney Carriage Driver's Licence

RESOLVED that having considered the circumstances set out in the report of the Deputy Chief Executive, Place now submitted, the application for grant of a Hackney Carriage Driver's Licence by Mr Parmjit Singh Khangura be refused.

(Note: Mr Khangura attended the meeting in support of his application).

30. **Any Other Items of Urgent Private Business**

There were no other items of urgent private business.

(Meeting closed at 11.05 am)

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Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 11.00 am on Monday, 9 October 2017

Present:

Members: Councillor A Lucas (Chair)
 Councillor J Clifford
 Councillor G Crookes

Employees (by Directorate):

Place T Johnson, L Knight, R Masih, C Simms

In attendance O Frank – Applicant
 F Quaynor – Applicant's Daughter

Public Business

5. **Appointment of Chair**

RESOLVED that Councillor Mrs Lucas be appointed as Chair for the meeting.

6. **Declarations of Interest**

There were no declarations of interest.

7. **Licensing Act 2003 - Application for a new Premises Licence**

The Licensing and Regulatory Sub-Committee considered a new Premises Licence in respect of Caribbean Trade Ltd trading as Vincy Foods (Kaffee & Kream) at 171 Bell Green Road, Coventry CV6 7GW.

The Applicant was requesting the sale of alcohol (on and off sales) during the hours of 09:00 to 23:00 Monday to Saturday and 10:00 to 23:00 on Sunday. The Licensing Officer reported that six objections had been received in response to the application, though none were from statutory consultees. In addition, the Sub-Committee were advised that the Police had indicated that they had no objections to the application, subject to the acceptance of the following conditions:-

- The consumption of alcohol on the premises is limited to the clients of the hairdressing salon.
- Alcohol would only be delivered to a household where a responsible adult is present.
- Every person who appears to be under the age of 25 will be asked for ID.
- On sale and delivery staff will be suitably trained in basic licensing law.

The Applicant then addressed the hearing and explained his reasons for the application, in particular that the 'on sales' would be restricted to the clientele of the hairdressing salon and that 'off sales' related to a delivery / collection service by appointment, rather than an off licence where members of the public could walk

in and make a purchase. In addition the Applicant provided clarification on the layout of the premises set out in the plan on page 35 of the document pack, including that there was no access to the garden area from the main part of the building except by a fire escape. The only other access was via a locked gate in the side alley. The Applicant confirmed that there would be no objection to the on sales element being confined to the salon area of the premises only.

The Sub-Committee asked questions in relation to the application from both the Licensing Officer and the Applicant and referred to the objections submitted and set out in the document pack before them.

The parties then summed up their respective positions and the Members considered the Application.

RESOLVED that the Licensing Sub-Committee, having heard all of the evidence from the parties, and having reviewed all of the papers provided in advance of the hearing, including those from objectors, unanimously decided to grant the licence on the following conditions:

- 1. That on sales be restricted strictly to the salon area (as shown on the plan page 35), and for the consumption only of those receiving services on the premises.**
- 2. Where alcohol was to be delivered to a property that it would only be handed to a responsible adult in accordance with the Challenge 25 policy.**
- 3. The sale of alcohol is strictly limited to the opening hours of 0900 – 2300 Monday to Saturday, and 1000 – 2300 on Sunday. No out of hours appointments outside of these times are permitted.**
- 4. No rubbish or bin movement is to take place outside of the sales hours.**

8. Any Other Business

There were no other items of business

(Meeting closed at 12.00 pm)



Cabinet Member for Policing and Equalities
Licensing and Regulatory Committee
Council

26 October 2017
14 November 2017
5 December 2017

Director Approving Submission of the report:
Director of Finance and Corporate Services

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

Executive Summary:

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 are 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 has 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.

Case law has confirmed, however, 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 to as an interim measure pending further investigation into a driver's conduct.

This means that if officers believe 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.

This report recommends 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 requires it.

This proposed change was considered by the Constitutional Advisory Panel at its meeting on 9 October 2017. The Panel resolved to recommend to the Cabinet Member that the change be approved.

Powers are delegated to officers under the licensing scheme of delegation by the Licensing and Regulatory Committee. A report will therefore be going to the next meeting of that Committee to ask it to agree the change. The Cabinet Member is therefore asked to approve this change, subject to the agreement of the Licensing and Regulatory Committee.

Any change to the Constitution must be approved by full Council.

Recommendations:

Cabinet Member is recommended to:

- (1) Approve the proposed change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and
- (2) Recommend to the Licensing and Regulatory Committee that it approves the change in the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and
- (3) Recommend to full Council that they agree to its being included in the Constitution.

Licensing and Regulatory Committee is recommended to:

- (1) Approve the proposed change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and
- (2) Recommend to full Council that they agree to its being included in the Constitution

Council is recommended to:

- (1) Agree that the change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation be included in the Constitution

Appendix included: None

Other useful background papers: None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

The report was considered and approved by the Constitutional Advisory Panel on 9 October 2017. The report will go to the next meeting of Licensing and Regulatory Committee.

Will this report go to Council?

Yes 5 December 2017

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

1. Context (or background)

- 1.1. 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 are 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 has 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.
- 1.2 Case law has confirmed, however, 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 to as an interim measure pending further investigation into a driver's conduct.
- 1.3 The Council therefore needs to consider how it is going to deal with urgent situations where a driver cannot be allowed to continue driving pending a full investigation into an allegation.

2. Options considered and recommended proposal

2.1 Option 1: Do nothing (not recommended)

If the Scheme of Delegation is left as it is, then officers could not suspend a licence where there are public safety concerns without running the risk that the suspension would be challenged, given the case law which clearly states that suspension is a final sanction, not an interim sanction. Otherwise, the driver would have to be allowed to continue driving pending a full investigation.

2.2 Option 2: Amend the Hackney Carriage and Private Hire Licensing Scheme of Delegation (recommended)

- 2.3 The current delegations to officers are set out below (at paragraph 6.6.66 of Part 2M of the Constitution):

1.3 Suspension of Licence

To suspend where:

(a) 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; 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 suspend a licence in the interests of public safety.

1.4 Revocation of Licence

To revoke where 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.

- 2.4 It is recommended that the Scheme of Delegation is amended as follows. Deleted text is scored through and new text is underlined:

1.3 Suspension of Licence

To suspend where:

- (a) 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; 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 suspend a licence in the interests of public safety.~~

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

2.5 Recommendation

2.5.1 Cabinet Member is recommended to:

- (1) Approve the proposed change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and
- (2) Recommend to the Licensing and Regulatory Committee that it approves the change in the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and
- (3) Recommend to full Council that they agree to its being included in the Constitution.

2.5.2 Licensing and Regulatory Committee is recommended to:

- (1) Approve the proposed change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation; and
- (2) Recommend to full Council that they agree to its being included in the Constitution

2.5.2 Council is recommended to:

- (1) Agree that the change to the Hackney Carriage and Private Hire Licensing Scheme of Delegation be included in the Constitution

3 Results of consultation undertaken

None, as the change requested arises from a change in case law.

4. Timetable for implementing this decision

4.1 Not Applicable

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

The change requested arises from case law which makes the current delegations to officers to suspend licences unsafe and liable to challenge. The change in delegation will allow officers to take decisions to protect the public quickly without having to wait until the Committee can consider the matter.

6. Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable.

6.2 How is risk being managed?

The proposal seeks to address the current risk of the Council being challenged if officers continue to suspend licences on the ground of public safety.

6.3 What is the impact on the organisation?

The change will give officers the power to protect the public without having to wait until a scheduled Committee meeting.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

Report author(s): Carol Bradford

Name and job title: Corporate Governance Lawyer, Regulatory Team, Legal and Democratic Services

Directorate: Place Directorate

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Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
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Cllr A Khan	Cabinet Member Policing and Equalities			

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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