
DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

12 FEBRUARY 2013

Present –

MEMBERS:

Councillors Lawson (Chairman), G Chapman, Fantham, Mrs Green, R Hollinghurst, Link, Peter, G Sutton and Whitman

OFFICERS:

| | |
|-------------|------------------------------------|
| B Lisgarten | Legal Governance Team Leader |
| R Hill | Licensing Team Leader |
| S Taylor | Senior Assistant Licensing Officer |
| T Coston | Member Support Officer (Minutes) |

Other Persons Present:

Item 5 – Mr T Khan

The meeting began at 8:12 pm

1. MINUTES

The minutes of the meeting held on 27 November 2012 were confirmed by the Members present and then signed by the Chairman.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Conway and Taylor.

3. DECLARATIONS OF INTERESTS

No interests were declared

4. PUBLIC PARTICIPATION

None

5. LICENSING FEES 2013-14

R Hill apologised as there were a couple of errors within the report. He highlighted that the recommendation on page 3 was incorrect, and referred the committee to the correct recommendation set out at paragraph 5.1 on page 9 of the report. He then referred to page 23 of the report, within the fees document, and advised that the entry for vehicle compliance test should read £54.00, as this was reduced as a result of the re-tender of the vehicle testing contract late last year.

He advised that the matter was being returned to the committee following consultation on the proposals, and the responses received were included in the report. In addition to the

proposals in the previous report, a few further changes had been made following consultation, which are included in the list of revisions at paragraph 3.2 of the report.

He explained the proposals had been put forward on the basis of the current costs incurred by the Licensing Section in processing the various application types. This is the first service-wide review of licence application fees to have been carried out in several years, and although in a number of areas fees have been amended in the interim, in others it is almost 9 years since a review has been carried out. This has led to a deficit in recent years between fee revenue and expenditure, and if adopted, he said they believed that licence fee revenue will increase by around £25-30k in total, providing application numbers remain stable.

He advised they intended to carry out similar reviews annually, and any future surpluses or deficits realised from licence fees would be reflected in future fee setting. Any further savings made as a result of streamlined procedures, including the Dacorum Anywhere program, will also be reflected in such exercises.

Councillor G Sutton referred to section 3 of the document relating to animal boarding establishments and asked if they would consider licences for dog walkers. R Hill advised that they were unable to implement such a licence as the legislation was specific to the accommodation of animals.

Councillor Mrs Green referred to section 8 of the document relating to scrap metal and motor salvage and queried why it was not envisaged to introduce licence fees for scrap metal dealers. R Hill explained that the legislation for scrap metal dated back to the 1960's and that the current registration system contained within the legislation was largely a paper exercise. He advised that Parliament was currently considering a new Scrap Metal Dealers Licensing Bill with a whole new licensing system, including various background checks on applicants, and that depending upon when this Bill received Royal Assent this may be in place by the end of this year.

Councillor Mrs Green referred to section 3 of the document relating to animal welfare and felt that the fee for a home animal boarding establishment licence was considerably large for those individuals accommodating only a couple of animals as opposed to kennel boarding. R Hill said they recognised the commercial differences but could not look at likely income of a business, but rather had to consider the cost to the licensing department as the administrative work was very similar. He advised they would be reviewing licensing procedures in this area later this year and if further cost reductions could be identified it may be possible to reduce fees during subsequent fee setting exercise.

Councillor G Sutton referred to section 10 of the document relating to skin piercing and tattooing and felt that the fees were considerably low for the value of such a business. R Hill advised that in setting fees they had to consider the processes and administrative work rather than the potential value of a business.

The Chairman invited Mr Khan, Chair of Dacorum Hackney Carriage Drivers Association, to make representations to the Committee.

Mr Khan expressed his concern on the proposal for an increase in drivers licence fees. He said that licence holders would find the large increase difficult in the current climate and felt a 10% increase would be more reasonable. He also felt that the fees did not reflect the level of service being received as it can take several days for the licensing department to process and grant a licence, whereas other councils can process a licence in one day. He asked the Committee to consider refraining from making a decision relating to Hackney Carriage

golden plates as the Law Commission were investigating the matter.

The Chairman asked R Hill if he had anything to add. R Hill advised that the matter of Hackney Carriage golden plates was contained within a report to be considered by the Committee later in the meeting. He welcomed any questions from the Committee.

Councillor R Hollinghurst asked when the fees were last reviewed. R Hill advised that the taxi licence fees were last reviewed in 2004.

Councillor R Hollinghurst felt that the increases were severe and suggested the changes were implemented over a period of a few years; she made a proposal to the Committee, however this not seconded.

The substantive recommendation, as set out in the report, was proposed.

Voting:

7 for, 1 against and 1 abstention;

whereupon it was:

Resolved:

That the committee set the fees and charges payable by applicants in connection with applications and other processes for licences, registrations and permits the fees and charges as set out in the document 'Licensing Fees and Charges 2013-14' for the period from 1 April 2013 to 31 March 2014.

6. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING PROCEDURES AND POLICIES

R Hill advised that these matters were being returned to the Committee for consideration following the completion of consultation. He asked if each of the topics could be considered separately, which was agreed by the Committee.

R Hill referred to paragraph 2.1 relating to age limits for driver licence applicant. He said they currently require applicants to be over the age of 21 years of age, and believed that amending this to require a longer driving history will be of more relevance to the application. This would also remove a somewhat arbitrary age limit, which may have resulted in legal challenges under equalities legislation. It was also proposed to introduce a new secondary requirement in respect of applications made in reliance upon a European driving licence. Requiring applicants to obtain a UK licence counterpart will ensure that drivers are subject to proper recording of motoring offences committed in the UK, allowing the licensing authority to properly consider their driving history.

Councillor Mrs Green asked if they would consider introducing a language test. R Hill replied they were looking at options for incorporating a language test in to the council's knowledge test.

Councillor Whitman expressed his concern that an individual can apply for a licence immediately after entering the country. He said there should be an allocated period of time to practice before being granted a licence. R Hill noted Councillor Whitman's concerns, but advised that such a policy could be legally challenged under the EU freedom of trade rules.

He said that officers were looking at the possibility of introducing a practical driving test within the council's knowledge test requirements.

The substantive recommendation, as set out in the report, was proposed.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the Committee amend the Council's policy in respect of the licensing of hackney carriage and private hire drivers, with effect from the 1st April 2013, by repealing the previous policy requiring applicants to be over the age of 21 years, and adopting the following policy provisions:

- The Council shall require applicants for hackney carriage or private hire driver licences to demonstrate that they have been authorised to drive motor vehicles in Great Britain or an EEA member state for at least 36 continuous months immediately prior to the date of application, and continue to be so authorised. No licence shall be issued in any circumstances to an applicant who has been authorised to drive motor vehicles for less than 12 continuous months or who is not so authorised at the time of consideration of the application. Applicants with between 12 and 36 continuous months authorisation will be refused unless exceptional circumstances can be demonstrated.
- Where an application is made in reliance upon a driving licence issued by an EEA member state, the applicant must obtain a British licence counterpart from DVLA. Both the British counterpart and the original EEA state licence must be produced for examination upon the making of an application.

R Hill referred to paragraph 2.2 relating to the proposed introduction of a dual driver licence application process. He said the proposal had received support from the trade, and should reduce the bureaucracy involved for drivers with both licence types considerably. He advised that officers were still working on the full proposals for this system, which will be brought to a future Committee meeting. As a result of this, the Committee were asked to endorse this measure in principle at this time.

The substantive recommendation, as set out in the report, was proposed.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the Committee provisionally endorse the adoption of a dual driver licensing system, subject to ratification of precise details of implementation of such a scheme at the next meeting of the Committee.

R Hill referred to paragraph 2.3 relating to signage on licenced vehicles and requested that the item be deferred to a future meeting. He advised that the trade had proposed an alternative to door signs and officers were currently evaluating and drawing up both proposals.

Resolved:

The Committee agreed the item would be deferred to a future meeting.

R Hill referred to paragraph 2.4 relating to the revised guidelines on fitness of applicants for drivers licences and proposed to replace the current convictions policy with the guidelines on the fitness of applicants document included in the agenda; this was a wider ranging document than the current policy, and should provide greater transparency on the items for consideration in the determination of drivers licence applications. He advised that no comments were received in respect of this proposal, and it was therefore recommended that the revised document was adopted with effect from the 1 March 2013.

The substantive recommendation, as set out in the report, was proposed.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the Committee adopt the document, "Guidelines on Fitness of Applicants for Hackney Carriage / Private Hire Driver's Licences" as non-binding and non-exhaustive guidelines for the determination of applications and reviews of hackney carriage and private hire drivers licences in respect of applications received and similar processes commenced on or after the 1st March 2013, superseding the 2008 document "Guidelines to be used by the Licensing and Health and Safety Enforcement Sub Committee when considering the relevance of convictions".

R Hill referred to paragraph 2.5 relating to the joint ownership of 'golden plate' hackney carriages. He advised that officers were now recommending against proceeding with this proposal for the reasons set out in the report. It was believed that such a policy could open the Council to a successful challenge under human rights legislation, under which a licence is regarded as property. He said they intend to bring further proposals in respect of the licensing of hackney carriage vehicles to the Committee later this year.

Councillor Peter felt they shouldn't be intimidated by the human rights legislation as both points of view are taken in to account for consideration.

The substantive recommendation, as set out in the report, was proposed.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That no further action shall be taken in respect of the proposal to prohibit new joint ownership of 'golden' hackney carriage plates, as considered by the Committee on the 1 March 2012.

R Hill advised that paragraph 4 detailed a number of operational matters and were provided for information purposes only.

Resolved:

That the Committee noted the remaining contents of the report.

7. REVIEW OF LICENSING ENFORCEMENT POLICY

R Hill introduced the item and explained the report related to proposed revisions to the Council's adopted Licensing Enforcement Policy, the current version of which was due to expire shortly. The matter was being returned to the Committee following the consultation period. He highlighted that the key amendments to the policy were set out at paragraph 2.3 on page 62, and formed part of a general refresh of the document, bringing it up to date with current guidance and associated publications. He explained that more substantial changes had been made to the sections on representations and reviews under the Licensing and Gambling Acts, following the recent introduction of new statutory powers allowing the licensing authority to initiate reviews and make representations in its own right. It was proposed that these powers were delegated to officers to exercise, with contested applications or reviews coming before the appropriate Sub-Committee for determination, as is currently the case. In order to facilitate this, 6 new delegations were outlined at paragraph 3.2.

He explained that recent case law had affected the way in which the power to suspend taxi licences may be used and this was now only available as a punitive measure. Previously, licences could be suspended while an investigation into allegations made against a driver was carried out, but the courts have now ruled that this is not lawful. He advised that a revised option was therefore set out in the policy, for the immediate revocation of a licence following the most serious allegations (for example, sexual or violent offences). It was proposed that this power would be exercised by the Licensing Team Leader or a more senior officer, following consultation with the Chair or Vice Chair of the Committee, and only after any representations made by the individual concerned are taken into consideration. Revised delegations covering this power and the other relevant suspension powers are also included in the table at paragraph 3.2.

The substantive recommendations, as set out in the report, were proposed.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

1. That the Licensing Enforcement Policy is adopted by Dacorum Borough Council for the period from 1 March 2013 to 29 February 2016;
2. That authority to exercise the powers in respect of the making of representations and review applications relating to premises licences and club premises certificates, and the suspension and revocation of various taxi-related licences, and to delegate further to other officers as indicated in the table at paragraph 3.2 of the report, be delegated to the Assistant Director (Legal, Democratic and Regulatory).

8. DEREGULATION OF ENTERTAINMENT LICENSING

R Hill explained that the report outlined the intended deregulation of most forms of regulated entertainment under the Licensing Act 2003, and was provided for the Committee's information only. The changes would be made to primary legislation by Government, and are expected to take effect from the 1st April 2013. He said the last paragraph of the report related to this authority's Statement of Licensing Principles. As indicated, recent statutory changes mean that the policy now requires a substantial review, and proposals will be reported to the Committee later this year.

Resolved:

That the Committee noted the report.

The meeting ended at 8:54 pm