

# NORTH LINCOLNSHIRE COUNCIL

## LICENSING COMMITTEE

4 June 2020

**PRESENT:** - Councillor K Vickers in the chair.

Councillors P Vickers (Vice-Chairman) Armitage, Bainbridge, Clark, A Davison and Wells.

The committee was held virtually via Microsoft Teams.

1694 **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS, PERSONAL OR PERSONAL AND PREJUDICIAL INTERESTS AND SIGNIFICANT CONTACT WITH APPLICANTS, OBJECTORS OR THIRD PARTIES (LOBBYING)** - The following members declared personal interests -

Member	Nature of Interest
Councillor Armitage	Personal Licence Holder

1695 **MINUTES - Resolved** - That the minutes of the proceedings of this committee held on 23 January 2020 having been printed and circulated amongst the members, be taken as read and correctly recorded and signed by the chairman.

1696 **SUB-COMMITTEE PROCEEDINGS - Resolved** - That the minutes of the meeting of the Licensing (Activities) Sub-Committee held on 18 March 2020 be received.

1697 **SUB-COMMITTEE PROCEEDINGS - Resolved** - That the minutes of the meeting of the Licensing (Miscellaneous) Sub-Committee held on 6 February and 5 March 2020 be received.

1698 **LICENSING FEES** – Further to minute 1675, the Director: Operations submitted a report that proposed to review the licensing fees in light of the current legislation and case law, and approve the revised fee structure. On 23 January 2020 the report was considered and approved, however due to errors found in the end calculations, the report was resubmitted for member’s consideration. Following consultation, representation in the form of a petition was received objecting to the fee increase.

Following the court ruling in favour of Hemming (t/a Simply Pleasure Ltd) and others v Westminster City Council, Councils and other licence fee charging bodies across the UK were allowed to recoup regulatory and enforcement costs instead of just the administration costs of granting a licence.

The court determined that the distinction between two types of licensing scheme, known as type A and type B. The details were at paragraph 2.3 of the report.

The fees for licensable activities could be set in a number of ways. They could be determined by Parliament, thus a statutory fee, be a maximum fee or the fee could be

**LICENSING COMMITTEE**  
**4 June 2020**

set at the discretion of the Council. In some cases, no fee could be charged, for example, charitable collections.

Where the Council had discretion in setting the fees, the Council were bound by legislation and case law. Distinct elements the Council needed to comply with were detailed at paragraph 2.6 of the report.

In accordance with the legislation, the Provisions of Service Regulation 2009 and the relevant case law, the cost of administering and processing each application had been considered. Where an element could be included for enforcement, it had been listed separately. The costs were based on the time each application took to process and the costs of the licensing function. The review of the fees allowed the fees and charges to be robustly defended against any legal challenge.

If the Council did not comply with the legislation and regulations, then it would be open to a legal challenge, which would have had serious implications both financially and for the Councils reputation.

Applicants could apply for their licence and pay either one of the following ways:

- a) Pay application and processing fee only (Application Fee)
- b) Pay application, processing and enforcement fee (Licence Fee)

Where the applicant had been unsuccessful in their application and had paid point b), they would be refunded the enforcement element of the payment. The Application Fee was non-refundable.

On 23 January 2020, members of the Licensing Committee considered a report to review this process and amended fee's which was approved. In accordance with legal requirements, the Taxi licensing fees were advertised in the Scunthorpe Telegraph. Consultation began on 30 January 2020 until 28 February 2020.

The Director: Governance and Partnerships notified the committee that an adjournment had been requested in writing from the petitioners, giving reasons that they had not had time to prepare due to the current covid-19 pandemic and being unable to meet with other members of the trade. A petitioner was in attendance, however they were unable to be heard when invited to speak.

**Resolved** – That as a petitioner was unable to be heard at the hearing, and petitioners had notified the Director: Governance and Partnerships in writing that they would like an adjournment, the committee agreed to defer consideration of this item to allow another opportunity for the petitioners to attend.

- 1699 **THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**  
– The Director: Operations submitted a report advising the Committee of all decisions taken by Authorised Officers of the Licensing Division, in relation to licences, registrations, permits and consents, under the scheme of delegation.

## LICENSING COMMITTEE

4 June 2020

The adoption of the Openness of Local Government Bodies Regulations in August 2014 changed the requirements placed on local authorities in regard to reporting decisions taken under delegated authority by officers.

Prior to the new regulations, officers were required only to produce a report on decisions taken under authority delegated to them under the Executive powers.

The requirement had now been extended to all decisions, whether made by an officer or on behalf of another committee/sub-committee or joint committee, in which the Council participated. This applied where the decision had been delegated to an officer, either under a specific delegation or under a general authorisation.

A summary of all decisions made by officers for licences, registrations, permits and consents issued between 10 January 2020 and 20 May 2020 was made available on the Council's website, and distributed to members prior to the meeting.

**Resolved** – That the report be noted.

- 1700 **LICENSING (ACTIVITIES) SUB-COMMITTEE PROCEDURE** - The Director: Governance and Partnerships submitted a report to consider changes to the process adopted by the Licensing (Activities) Sub-Committee.

All applicants, licence holders, responsible authorities and interested parties for the grant, variation or review of a premises licence were entitled to have a fair and public hearing. This also applied to all parties involved in Personal Licences, Temporary Event Notices and expedited review of premises licences.

Applicants and objectors had attended the Licensing (Activities) Sub-Committee for many years, the majority of which had been available for members of the public to attend. During the hearing, evidence was presented and all parties were given the opportunity to make a verbal representation before the sub-committee. Once all the representations had been made, the applicant/licence holder and any party making a representation, including the Licensing Officers were asked to leave the room while a decision was made. Having made a determination both parties were invited to return to hear the decision. The decision was then confirmed in writing as soon as possible after the hearing. The date of the written decision was the official date from which the applicant has 21 days to appeal to the Magistrates Court if they wished to do so.

At the Licensing Committee meeting held on 12 September 2019, the members agreed to amend the procedure to be used at meetings of the Licensing (Miscellaneous) Sub-Committee (minute 1648 refers). The amendment to the procedure meant that now, once all parties had finished giving evidence and had the opportunity to sum up, the Licensing (Miscellaneous) Sub-Committee would move in to closed session to consider the evidence that was presented. Once the sub-committee had agreed a particular course of action, that decision would be served on all parties within a reasonable time period after the hearing rather than inviting all parties back in to the meeting to hear it verbally on the same day.

**LICENSING COMMITTEE**  
**4 June 2020**

The written decision was sent to all parties within 5 working days, where reasonably practicable. Changing the delivery of the decision would mean that the process was overall more efficient, more effective and safe especially supporting members and external participants during the current covid-19 pandemic. Initially, with current remote/virtual meetings external participants would not be left 'on hold' and waiting around for the sub-committee to make a decision, and also addressed the possibility of continuing social distancing requirements for any physical meetings/hearings which could resume in the future.

The Licensing (Miscellaneous) Sub-Committee also required that those members who were present at the hearing confirmed, by way of email and within 2 working days, that the written decision drafted by the Legal Officer and/or Democratic Services Officer was correct and reflected the decision made at the hearing. Where a member of the Licensing (Miscellaneous) Sub-Committee disagreed with the drafted decision, a revised version was provided and re-confirmed by all members who attended the hearing. Should no agreement be reached, members reconvene to agree the wording of the decision.

It was proposed that the provisions applied to the Licensing (Miscellaneous) Sub-Committee, as stated in paragraphs 2.3 and 2.4 of the report, be applied to the Licensing (Activities) Sub-Committee.

Members asked questions on aspects of the report to which the Director responded to.

**Resolved** – That the amended procedure at appendix 1 of the report be approved and adopted.

- 1701 **APPEALS SUBMITTED TO THE MAGISTRATES COURT** – The Director: Governance and Partnerships informed the sub-committee of an appeal which was received on 3 June 2020 for the revocation of a hackney carriage / private hire vehicle driver's licence.

**Resolved** – That the position be noted.