

# NORTH LINCOLNSHIRE COUNCIL

## LICENSING COMMITTEE

10 September 2020

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

Councillors P Vickers (Vice-Chairman) Clark, Ellerby, Rayner, Swift and Wells.

Councillors Hannigan and C Sherwood attended the meeting in accordance with Procedure Rule 1.37(b).

The committee was held virtually via Microsoft Teams.

- 1712 **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS, PERSONAL OR PERSONAL AND PREJUDICIAL INTERESTS AND SIGNIFICANT CONTACT WITH APPLICANTS, OBJECTORS OR THIRD PARTIES (LOBBYING)** – There were no declarations of Disclosable Pecuniary Interests, Personal or Personal and Prejudicial interest.

No lobbying was declared.

- 1713 **MINUTES - Resolved** - That the minutes of the proceedings of this committee held on 4 June 2020, having been printed and circulated amongst the members, be taken as read and correctly recorded and signed by the chairman.

- 1714 **SUB-COMMITTEE PROCEEDINGS - Resolved** - That the minutes of the meetings of the Licensing (Activities) Sub-Committee held on 9 July, 28 July and 27 August 2020 be received.

- 1715 **LICENSING FEES AND CHARGES** – Further to minutes 1675 and 1698, the Director: Operations informed the committee that following successful mediation with representatives of the petition signatories, the petition had been withdrawn.

**Resolved** – That it be noted the petition had been withdrawn.

- 1716 **STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS** – The Director: Operations informed the committee that the Statutory Taxi and Private Hire Vehicle Standards were issued by the Secretary of State for Transport on 21 July 2020 under section 177 of the Policing and Crime Act 2017. This followed consultation with national bodies. A copy of the guidance was attached as Appendix A to the report.

The committee was informed that Section 177 permitted the Secretary of State to publish guidance for the licensing function to protect children and vulnerable adults. Licensing authorities must have regard to any guidance issued under this section.

“Having regard” meant to have rigorous consideration of the guidance with an open mind, with a weight proportionate in the circumstances, when formulating a policy (paras 2.6-7).

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The Standards contained a set of expected minimum standards in administering the licensing function and determining applicant fitness and propriety that licensing authorities were expected to follow unless there was a compelling local reason not to (para 1.3)

North Lincolnshire Council already maintained many of these standards through the Taxi Licensing Policy, adopted guidance and more broadly through internal safeguarding and whistleblowing policies. The document contained several additional standards that would further improve public safety.

It was expected that drivers were required to register with the online Disclosure and Barring Service (DBS) Update Service to allow an online check to be made every six months. Where a driver was not registered, they should still be subject to a DBS check every six months (para 6.2)

Where a licensed driver was convicted of an offence during the term of their licence and it had not been notified to the council, there was up to a three-year gap in which the licence holder may continue to operate without the council's knowledge (para 3.6). A more frequent Update Service check would indicate whether there had been a change to their certificate. A registration costs £13 per year and was likely to be borne by the licence holder.

The Disclosure and Barring Service provide a system to allow multiple Update Service checks to be made simultaneously to minimise any potential burden on the service.

Vehicle dispatchers working for private hire operators had direct contact to the public, a position which may be exploited by those seeking to exploit vulnerable people. Private hire operators should be required, by way of condition, to keep a register of all staff who take bookings or dispatch vehicles and ensure the operator had recorded sight of a basic DBS certificate from them (paras 8.7-9).

While applications must still be considered on their own merits, Annex A to the report contained an assessment of previous convictions and the expected minimum post-sentence term an individual should complete before a renewal or grant of a licence was considered. These terms mirror and further support those already contained within the adopted document 'guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'.

Other measures also included liaison with neighbouring local authorities regarding policy changes, details regarding Common Law Police Disclosure, the requirement for drivers to evidence both oral and written English, and recommendations for a robust complaints procedure, and the consideration regarding the use of CCTV.

Following the Director's verbal presentation, the Chairman facilitated a discussion amongst the committee on the statutory taxi and private hire standards.

**Resolved** – That the guidance be adopted in accordance with Option 1 of the report.

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1717 **BUSINESS AND PLANNING ACT** – The Director: Operations informed the committee that the Business and Planning Act 2020 was presented to Parliament on 25 June 2020 and was due to progress through all stages very quickly.

The Act contained changes to legislation which had a direct impact on the Licensing Authority.

The first of the changes was that all premises where the sale of alcohol was currently authorised for the consumption on the premises would be automatically given the authority for customers to consume alcohol off the premises. This would change the licences for 99 premises. The extension of off-sales would be time limited and would expire on 30 September 2021 at the latest.

In addition to allowing all premises to have off-sales the government had extended the summary review process. Where a premises licence had been authorised for off-sales by this legislation, a responsible authority as named in the Licensing Act 2003 may submit an application to review the premises for one or more grounds under the licensing objectives.

Where an application for a summary review had been submitted, there would be the usual requirement to hold an interim hearing within 48 hours and then a full hearing following 28 days of consultation.

The second provision introduced in the Act was the “Pavement Licence”. The Pavement Licence sat alongside provisions contained in the Highways Act 1980 which were authorised to licence tables and chairs on the highway. Where the authorisation under the Highways Act had a 28 day consultation period the new Pavement Licence had a 7 day consultation period and a 7 day determination period.

If the Council failed to deal with the applications in a timely manner then the licence would be deemed granted for a period of a year or up to 30 September 2021 depending which was the sooner. The delegation of this activity had been set the same as the Highway Authorisations.

Prior to the introduction of this legislation, planning had commenced through the Nitesafe Partnership to consider the consultation process required to make sure authorisations were safe. This planning was based on the legislation already available but could now be used for both the Highways Authorisations and the new Pavement Licences. The key partners involved, who would be consulted included:

- Humberside Police
- Humberside Fire and Rescue
- Highways (Maintenance and Networks)
- Safer Neighbourhoods
- Public Health
- Environmental Health and Housing (Pollution Team)
- Planning (Development Control and Enforcement)

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- Food and Safety (Health and Safety and Infection Control)

The fee for a Pavement Licence had been set at £95. Licences could be issued for a maximum of a year or for a lesser period with a minimum period being 3 months. It was proposed that the decision regarding the length of licence and conditions set be determined by the Authorised Officer.

As this was a new licence type, a new application form and process was being developed and would be set up within a matter of days so that it was ready for use. In addition, businesses had been contacted to provide them with the relevant information.

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

- 1718 **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.

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 13 May 2020 to 27 August 2020 was made available on the council's website, and distributed to members prior to the meeting.

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

- 1719 **APPEALS SUBMITTED TO THE MAGISTRATES COURT** – The Director: Governance and Partnerships informed the sub-committee of three outstanding appeals that were waiting to be listed before the Magistrates Court for determination.

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