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Bridgend County Borough Council



Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB

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Rhowch wybod i ni os mai Cymraeg yw eich
dewis iaith.*

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Gwasanaethau Gweithredol a Phartneriaethol / Operational and Partnership Services

Deialu uniongyrchol / Direct line /: 01656 643387
Gofynnwch am / Ask for: Andrew Rees

Ein cyf / Our ref:
Eich cyf / Your ref:

Dyddiad/Date: Wednesday, 17 May 2017

Dear Councillor,

LICENSING COMMITTEE

A meeting of the Licensing Committee will be held in the Committee Rooms 2/3, Civic Offices Angel Street Bridgend CF31 4WB on **Tuesday, 23 May 2017 at 10.00 am.**

AGENDA

1. Apologies for Absence
To receive apologies for absence from Members.
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Approval of Minutes 3 - 6
To receive for approval the minutes of the Licensing Committee of 7 March 2017
4. Appointment of Licensing Sub-Committee(s) 7 - 8
5. Urgent Items
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.

Yours faithfully

P A Jolley

Corporate Director Operational and Partnership Services

Councillors:

PA Davies
DRW Lewis
JE Lewis
DG Owen

Councillors

SE Baldwin
RJ Collins
DK Edwards
B Jones

Councillors

T Giffard
AA Pucella
JE Williams
MJ Kearn

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RM James

G Thomas

LICENSING COMMITTEE - TUESDAY, 7 MARCH 2017

MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN COMMITTEE ROOMS 2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 7 MARCH 2017 AT 10.00 AM

Present

Councillor R Williams – Chairperson

E Dodd	CJ James	P James	PN John
DRW Lewis	JE Lewis	E Venables	RM James
MEJ Nott OBE			

Apologies for Absence

PA Davies and M Jones

Officers:

Daniel Cook	Licensing Policy Officer
Julie Ellams	Democratic Services Officer - Committees
Andrea Lee	Senior Lawyer
Yvonne Witchell	Team Manager Licensing

32. APPROVAL OF MINUTES

RESOLVED: That the minutes of the meetings of the Licensing Committee of 25 October 2016 and 27 January 2017 be approved as a true and accurate record.

33. INTRODUCTION OF 'INTENDED USE/REMOTE TRADING POLICY' FOR HACKNEY CARRIAGES

The Licensing Policy Officer presented a report updating the Committee on the consultation undertaken in respect of a proposed “Intended Use/remote trading” policy for Hackney Carriages and to determine the adoption of the policy in respect of intended use/remote trading of Hackney Carriages detailed in the report.

At the meeting of 25 October 2016, Members received a report relating to the 2008 High Court Judgement – Newcastle City Council v Berwick-upon-Tweed, which established a principle that it was lawful for Hackney Carriages to trade as Private Hire Vehicles, in a local authority area other than that which issued the licences. The case precedent arose as a result of a challenge from a licensing authority (Newcastle City Council) against a neighbouring licensing authority (Berwick-upon-Tweed) where there was a considerable disparity between standards of vehicles, conditions of licence and fees. As a result of the decision that such activity was indeed lawful, several licensing authorities identified ‘out of area’ vehicles trading in their area and took steps to eliminate such trade.

A number of authorities adopted an ‘Intended Use’ policy. The justification for such a policy was on the grounds of public safety, in that if vehicles were predominantly operating outside of the area where they were licensed then they were not available to be spot checked by officers when carrying out enforcement.

Members were advised that the policy was an attempt by Bridgend to deal with the problem locally and specifically dealt with those predominantly trading in other areas. Licensing Enforcement Officers only had powers to deal with vehicles licensed by their own area and as such neighbouring licensing authorities would have to rely on Bridgend

Licensing Enforcement Officers to regulate the Bridgend vehicles in their area and this was not practicable. There were joint enforcement powers across the shared regulatory service but this did not extend beyond the Vale, Cardiff and Bridgend.

Applications for new licences would be expected to demonstrate a bona fide intention to ply for hire within BCBC. Applicants who do not intend to entirely or predominantly ply for hire within BCBC would not be granted a hackney carriage licence.

The Committee was advised that this policy had been approved for use by Cardiff and the Vale in the shared regulatory service and this would harmonise the service.

The Committee was concerned that the 2008 High Court Judgement established a principle that it was lawful for Hackney Carriages to trade as Private Hire Vehicles in a local authority area other than that which issued the licences but authorities were introducing policies to restrict the practice.

Members raised the issue that BCBC issued Licences but it was not clear how many were operating within BCBC. Members were concerned that BCBC were responsible for enforcement for vehicles licensed in BCBC however if they chose to operate in a different authority, Enforcement Officers were unable to monitor them effectively.

Members also raised concerns about the number of applications considered from applicants living in Birmingham and the surrounding area. The Committee was advised that this policy would not stop applicants from outside BCBC applying but it would establish if the applicant intended trading remotely.

The Committee asked how the policy would be policed if licence holders were trading outside BCBC. The Licensing Policy Officer explained that other drivers in the area could complain about a particular driver and the complaint could be investigated and records checked to see what the driver was doing on that date. Members noted that some of the consultation responses were from outside BCBC.

Members asked what safeguards the introduction of this policy would give and what powers there were to monitor its implementation. The Committee recognised that it would be difficult to monitor and police. Powers to stop and inspect any vehicle had been proposed by the Law Commission but did not make it to legislation.

The Committee asked how the consultation was promoted. Members were advised that it was a corporate consultation on the Bridgend website and that there were no recognised trade associations within the Bridgend area.

Members discussed the possibility of an informal arrangement with an authority such as Swansea where Enforcement Officers from Swansea could inspect vehicles from Bridgend. Members were advised that this could only happen if there was a written collaboration agreement which would be difficult to administer in addition to the existing shared regulatory service.

The Committee recognised the importance of harmonising with Cardiff and the Vale and that this would strengthen existing arrangements. Members were concerned that this would not resolve all the issues and that they could be considered further in the future.

The Committee requested information on how the consultations were conducted in the Vale and Cardiff. Members were advised that a Forum was held in Cardiff attended by two people who gave a positive response. The Vale contacted a recognised trade organisation which then disseminated the information. No responses were received.

RESOLVED: The Committee approved the adoption of the Intended Use/Remote Trading Policy as set out in Appendix A of the report to take effect on 8 March 2017.

34. **HACKNEY CARRIAGE METER AND EQUIPMENT SPECIFICATION**

The Licensing Policy Officer presented a report on a proposal to introduce a condition into the hackney carriage meter and equipment specification requiring the annual testing of the fitted taximeter. Approval was also being sought to invite and establish an approved list of taximeter testers in order to facilitate annual testing of the taximeter and for a condition to be inserted into the current vehicle conditions with effect from 8 March 2017 to state that GPS taxi management & dispatch systems could not be used as taximeters to clarify the legal position.

The Bridgend County Borough Council hackney carriage byelaws required all hackney carriages to be fitted with a taximeter. The use of a taximeter had advantages for both the driver and passenger. The display of the fare clearly indicated to the passenger what the fare would be and the driver did not have to manually calculate the fare. The fare charged was therefore transparent and clear and assisted in minimising disputes

In recent years there had been a rise in the use of Global Positioning Systems (GPS) to measure fares in licensed vehicles. This system comprised of an office based central dispatch system linked to a mobile data terminal in the vehicle using GPS. The mobile data terminal was similar to a satellite navigation terminal, but also included a taximeter function.

GPS systems were used by operators to manage and dispatch vehicles to customers and could also be used to calculate the fare for the journey. However, whilst new technology was welcomed, no GPS system complied with the requirements of the Measuring Instruments (Taximeters) Regulations 2006 and therefore could not be used as a taximeter.

Hackney carriages in Bridgend were not currently required to have their taximeter periodically tested. It was proposed that a condition be inserted into the meter and equipment specification section of the hackney carriage conditions to ensure that all hackney carriages were fitted with a taximeter of approved design, properly sealed and tested and kept in good repair and proper working order clearly visible to all passengers without affecting passenger comfort or infringing construction and use regulations. The fitted meter also had to be calibrated to include only Bridgend County Borough Council tariffs applicable to the number of passengers permitted in that vehicle. The proprietor also had to produce annually to the Licensing Authority a certificate issued by a taximeter installer/tester approved by the Licensing Authority stating that the meter was accurate and contained only the current Bridgend County Borough Council hackney carriage tariff.

This proposed new condition would provide a robust process for ensuring taximeters were set to the correct Bridgend tariff, helping to maintain public trust that the fare charged on the meter was correct. The proposal would require consultation with the trade, and as this matter was trade specific, the consultation would be by letter to all existing proprietors.

The Committee requested an approximate figure for testing the taximeter and were advised that it would cost approximately £30 annually.

The Licensing Policy Officer confirmed that units were not currently checked and this policy would put a robust procedure in place for the future. If a complaint was received

LICENSING COMMITTEE - TUESDAY, 7 MARCH 2017

for overcharging, an Enforcement Officer could investigate and take action. He confirmed this policy was already in place in Cardiff and in the Vale of Glamorgan.

RESOLVED

The Committee

- (i) Approved a consultation with the trade on the proposed amendments to the conditions relating to the hackney carriage meters and equipment by way of letter to proprietors.
- (ii) Approved the request to invite contractors to be considered for the approved list of taximeter testers.
- (iii) Approved that the following condition be inserted into the current vehicle conditions with effect from 8 March 2017.
“A GPS taxi management & dispatch system consisting of a mobile data head and a central dispatch system may be fitted in accordance with the manufacturer’s instructions. The GPS system is not a taximeter. It can be used alongside the vehicle’s approved taximeter but must not replace it.”
- (iv) Noted that a further report would be presented to deal with any consultation responses and to set an approved list of taximeter testers, together with an implementation date for the new requirements for meter calibration.

35. URGENT ITEMS

None

36. DECLARATIONS OF INTEREST

None.

The meeting closed at 10.40 am

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

23 MAY 2017

REPORT OF THE CORPORATE DIRECTOR OPERATIONAL AND PARTNERSHIP SERVICES

APPOINTMENT OF LICENSING SUB- COMMITTEE(S)

1. Purpose of Report.

- 1.1 To propose the membership of the Licensing Committee Sub-Committees following the Annual Meeting of Council 2017.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The proposals are required to effectively discharge the functions of the authority in respect of general licensing applications, the majority of which relate to taxi licensing. The range of functions is set out within the Council's Constitution in Part 3 Responsibility for Functions relating to the Licensing Committee and Sub-Committees. These functions include taxi licensing, street trading, and other general licensing regimes as required. A separate report is being submitted in respect of Licensing Act 2003 and Gambling Act 2005 functions.

3. Background.

- 3.1 At their meeting on 17 May 2017 Council received a report establishing the membership of the Licensing Act 2003 Committee and the Licensing Committee.

4. Current situation / proposal.

- 4.1 It is proposed that the Licensing Committee continue with the existing arrangements and approve the formation of two panels sitting on a rota basis each consisting of seven Members of the Licensing Committee and chaired by the Chairperson and Vice Chairperson of the Licensing Committee where possible.
- 4.2 In the event that the Chair or Vice Chair are not able to attend their respective sub-committee meeting, a chair will be elected from those in attendance.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 The report content has no direct effect upon the Policy Framework and Procedure Rules.

6. Equality Impact Assessment

- 6.1 There are no equality implications arising from this report.

7. Financial Implications.

7.1 There are no financial implications to the proposals.

8. Recommendations

8.1 The Committee is recommended to:

8.2 Approve the formation of two panels sitting on a rota basis each consisting of seven Members of the Licensing Committee and chaired by the Chairperson and Vice Chairperson of the Licensing Committee where possible. In the event that the Chair or Vice Chair are not able to attend their respective subcommittee meeting, a chair will be elected from those in attendance. These Licensing Sub-Committees will undertake licensing functions, including taxi licensing and street trading as set out in the Council's Constitution.

P A Jolley
Corporate Director Operational and Partnership Services

Date 17 May 2017

Contact Officer: Yvonne Witchell

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Background documents

Report to Council 17 May 2017

Council Constitution

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