

LICENSING COMMITTEE - FRIDAY, 27 JANUARY 2017

MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN COMMITTEE ROOMS
2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON FRIDAY, 27 JANUARY
2017 AT 10.00 AM

Present

Councillor R Williams – Chairperson

GW Davies MBE	PA Davies	E Dodd	CJ James
P James	PN John	DG Owen	E Venables
M Jones			

Apologies for Absence

DRW Lewis, JE Lewis, RM James and MEJ Nott OBE

Officers:

Will Lane	
Yvonne Witchell	Team Manager Licensing
Mark Galvin	Senior Democratic Services Officer - Committees
Andrea Lee	Senior Lawyer
Amanda Ewington	Licensing Enforcement Officer

27. APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members:-

Councillor D Lewis
Councillor JE Lewis
Councillor RM James
Councillor MEJ Nott OBE

28. DECLARATIONS OF INTEREST

None.

29. LICENCE FEES: EUROPEAN COURT OF JUSTICE RULING - HEMMING V
WESTMINSTER

The Corporate Director – Operational and Partnership Services submitted a report, the purpose of which, was to advise Members of the recent European Court of Justice ruling in the Hemming v Westminster Case. The ruling has implications for the way in which local authorities can charge for the cost of administering and enforcing certain licensing regimes.

The Operational Manager, Neighbourhood Services confirmed that it was necessary to restructure some of the Council's licensing fees in light of the outcome of a recent Court Hearing.

The report explained that in 2012, sex shop owner Timothy Hemming instituted legal proceedings against Westminster City Council, contesting that the level of licence fees charged by that Council were not reasonable. The sex shop fees were in excess of £26k.

The Operational Manager, Neighbourhood Services, advised that the case then went to the Court of Appeal in 2013 who agreed with Mr. Hemming. However, it was then referred to the Supreme Court in 2015, and they overturned the decision of the Court of Appeal, adding that the reason for this, was that local authorities could set their fees at a level that would enable them to recover the full costs of managing and enforcing the licensing regime, including the costs incurred in proceedings taken against unlicensed operators.

The Supreme Court also gave consideration to how such fees should be structured, and it identified two different approaches to charging licence fees, ie Type A and Type B as were outlined in paragraph 3.5 of the report.

The Operational Manager, Neighbourhood Services, added that BCBC and nearly all other local authorities complied with Type B charging in respect of licensing fees. However, in view of the above, this did not comply with the law as determined by the European Court of Justice (November 2016).

The next section of the report, advised that Licensing Authorities were now required to structure their fees, under the Type A approach, as explained in paragraph 3.5 of the report, and paragraphs 4.1 to 4.3 of the report expanded upon how this could be achieved.

In terms of the financial implications of the report, the Licensing Service was required to be self-financing within the limitations of the statute. The Operational Manager, Neighbourhood Services added that the Type A approach may increase the administrative burden on the Licensing Section, especially if it involves pursuing non-payment of the second fee; however, these costs would need to be considered and factored into the new fee structure.

RESOLVED: That the Committee noted the report, and awaits a further report on this matter to ensure the Council's licensing processes reflect those advocated by the European Court of Judgement.

30. **APPLICATION FOR FORD JOURNEY PLUS TO BE APPROVED AS A VEHICLE SUITABLE FOR USE AS HACKNEY CARRIAGE IN BRIDGEND**

The Corporate Director – Operational and Partnership Services submitted a report, the purpose of which, was to consider the suitability of a Ford Journey Plus to be licensed to carry six passengers as a Hackney Carriage in Bridgend. He added that a similar vehicle would be available for inspection at the meeting.

The report gave some background information, which contained information on vehicle specifications that qualified in accord with the Council's Licensing Policy, to be classed as vehicles suitable to carry six passengers or less than that if they carried a wheelchair passenger.

The Senior Licensing Enforcement Officer advised that the report was subject of a request that had been made by a Mr Byron Davies for the licensing authority to consider the Ford Journey Plus as a type of vehicle suitable for use as a hackney carriage in Bridgend CBC. He had not yet purchased the vehicle.

A similar vehicle to the one Mr Davies intended purchasing, was inspected by a Licensing Enforcement Officer and was found not to be suitable to be licensed in its present form, as it did not meet the dimensions as specified in the hackney carriage vehicle specifications policy, primarily as the rear seat width was 15.5 inches and as such below the required 17 inches.

A photograph available from the Cab Direct website of the two rear foldaway seats was attached at Appendix A to the report.

Mr Davies had sent a letter to the Council (Appendix B to the report refers) requesting that the Authority considers licensing the vehicle for 6 passengers, notwithstanding the fact that as a result of the vehicle inspection, he had been advised that the vehicle did not meet the minimum specification, but that it could be licensed for fewer passengers.

The Committee (aside of Councillors C James, P John and M Jones) then proceeded to inspect a similar vehicle to the one Mr Davies intended purchasing, which situate in the Civic Offices basement car park.

Following the Members/Officers, Mr Davies and Mr P Renwick from Premier Cars returning to the meeting, members asked questions of Mr Davies in respect of the vehicle he attended purchasing, similar to the vehicle that was inspected.

Officers and the applicant then retired from the meeting, in order that Members could deliberate the decision with the advice of the Legal Officer.

Upon parties being summoned to return to the meeting, it was

RESOLVED: The Committee has considered the application to licence a Ford Journey Plus to carry six passengers as a Hackney Carriage in Bridgend. The Committee have inspected the vehicle and considered their policy. This vehicle does not meet the policy as the two rear tip and turn foldaway seats do not comply with the vehicle specifications contained in the policy as the seat width only measures 15.5 inches, which is below the requirement of 17 inches. After inspecting the vehicle and sitting in the two foldaway seats the Committee have decided that they are not suitable to carry passengers because of the difficulties in entering and exiting the vehicle when using those seats. The Committee have decided to licence the vehicle to carry four passengers and a wheelchair.

The Committee will not make a determination in relation to a private hire vehicle because the application before Members was for a hackney carriage and not a private hire vehicle.

31. URGENT ITEMS

None.

The meeting closed at 12.30 pm