

## BIRMINGHAM CITY COUNCIL

**LICENSING AND  
PUBLIC PROTECTION  
COMMITTEE  
12 JUNE 2019**

**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY, 12 JUNE 2019 AT 1000  
HOURS IN COMMITTEE ROOMS 3 AND 4  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Bob Beauchamp, Nicky Brennan, Neil Eustace,  
Nagina Kauser, Mike Leddy, Bruce Lines, Majid Mahmood, and  
Martin Straker-Welds.

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**NOTICE OF RECORDING/WEBCAST**

- 1176 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

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**DECLARATIONS OF INTEREST**

- 1177 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

There were no declarations of interest.

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**APOLOGIES**

- 1178 Apologies were received from Councillors Adam Higgs, Mary Locke, Chauhdry Rashid and Mick Sharpe for non-attendance.

**APPOINTMENT OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

- 1179 The appointment by the City Council of the Committee and Chairman for the Municipal Year 2019/2020 was noted as follows:-

**Labour Group (10)**

Councillor Olly Armstrong  
Councillor Nicky Brennan  
Councillor Phil Davis (**Chairman**)  
Councillor Nagina Kauser  
Councillor Mike Leddy  
Councillor Mary Locke  
Councillor Majid Mahmood  
Councillor Chauhdry Rashid  
Councillor Mike Sharpe  
Councillor Martin Straker Welds

**Conservative Group (4)**

Councillor Bob Beauchamp  
Councillor Adam Higgs  
Councillor Bruce Lines  
Councillor Simon Morrall

**Liberal Democrat Group (1)**

Councillor Neil Eustace

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**ELECTION OF DEPUTY CHAIR**

Councillor Brennan nominated Councillor Leddy and seconded by Councillor Kauser.

It was

- 1180 **RESOLVED:-**

That Councillor Leddy be appointed as Deputy Chair of the Committee for the Municipal Year 2019/20.

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**FUNCTIONS, POWERS AND DUTIES**

The following schedule was submitted:-

(See Document No. 1)

- 1181 **RESOLVED:-**

## **Licensing and Public Protection Committee – 12 June 2019**

That the Committee's functions, powers and duties, as agreed by City Council and set out the attached schedule be noted.

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### **LICENSING COMMITTEE CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS**

The following code of practice was submitted:-

(See Document No. 2)

The Chair confirmed that the amended version of the code of practice would be submitted to a future meeting of the City Council.

In response to Councillor Mahmood's enquiries relating to 3.1, 3.10, 3.12, 4.1, 6.1. 7.1 listed in the code of practice, following a brief discussion, whereby it was highlighted by the Chair that the points raised were valid and suggested that the detail be forwarded to the officers for a more specific response, as part of the process. He added that there was time for the requested information to be brought back to committee before progression to City Council.

Emma Rohomon, Acting Head of Licensing reported that the code of practice was circulated to all party chairs and therefore all members would have had sight of it beforehand, and it had been published for the last 2 years. She further added that most of what was included in the code of practice for Members was exactly the same as was included in the code of practice for Planning Committee.

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#### **RESOLVED:-**

That the Committee's Licensing code of practice for councillors and officers be noted.

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### **DATES OF MEETINGS OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

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#### **RESOLVED:-**

That meetings of the Licensing and Public Protection Committee be held on the following Wednesdays at 1000 hours in Committee Rooms 3 & 4 at the Council House, Birmingham.

#### **2019**

10 July  
11 September  
23 October  
20 November  
18 December

#### **2020**

15 January  
12 February  
11 March  
22 April

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**LICENSING SUB-COMMITTEES 2019/2020**

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**RESOLVED:-**

- (i) To note the membership of Licensing Sub-Committee's A, B and C for the Municipal Year 2019/2020 be noted;
- (ii) Each Sub-Committee comprise 3 Members (with a quorum of 3) and that authority be given for each Sub-Committee to determine matters relating to the Licensing Act 2003, the Gambling Act 2005, Hackney Carriage Licences Private Hire Licences and such other business as maybe referred to them by the Director of Regulation and Enforcement; and
- (iii) Any Sub-Committee Member may appoint a nominee (substitute) from their own party group on the Licensing and Public Protection Committee to attend a meeting in their place.
- (iv) Any Member nominated must have had formal training as set out in Paragraphs 6.1 of the Licensing Committee Code of Practice for Councillors and Officers.

**Licensing Sub-Committee A – Mondays (0930 hours)**

Councillor Phil David (Chairman)	Lab	Billesley Ward
Councillor Mary Locke	Lab	Stirchley Ward
Councillor Bob Beauchamp	Con	Perry Common Ward

**Licensing Sub-Committee B – Tuesdays (0930 hours)**

Councillor Nagina Kauser (Chairman)	Lab	Aston Ward
Councillor Nicky Brennan	Lab	Sparkhill Ward
Councillor Adam Higgs	Con	Highters Heath Ward

**Licensing Sub-Committee C – Wednesdays (0930 hours)**

Councillor Mike Leddy (Chairman)	Lab	Brandwood & Kings Heath Ward
Councillor Martin Straker-Welds	Lab	Moseley Ward
Councillor Neil Eustace	LD	Yardley East Ward

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**MINUTES**

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The public section of the Minutes of the meeting held on 9 April 2019 was noted; and the Minutes of the meeting held on 16 May 2019, having been previously circulated were confirmed as a correct record.

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**The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.**

**MORATORIUM EXEMPTION OF NEW ISSUE PLATE LICENCE REPORT**

The following report of the Assistant Director of Regulation and Enforcement was submitted:-

(See Document No. 3)

Chris Arundel, Principal Licensing Officer, introduced the report and, in response to several comments from Members advised:-

He confirmed that a small number of drivers had either given up their licence or replaced their vehicles in anticipation of the clean air zone (caz) however, stated that the majority had waited to see what the decision was agreed by the committee today.

He reported that if a driver had surrendered their licence due to the issues relating to (caz) and would now like to be included, then the matter could be taken to a licensing sub-committee for consideration as to whether they thought it was appropriate to allow the individual to take part.

He confirmed that officers would gladly support any committee decision and that they were looking at a framework whereby officers could deal with this area of work, without having to take to a sub-committee.

At this juncture, Councillor Mahmood whilst highlighting concerns relating to the impact on hackney carriage drivers with regard to (caz) and although supported the moratorium, suggested that the time limit on it should be increased to 3 years.

The Chair stated that the advised proposal from the trade was that it should be 2 years and was in agreement that the time-scale remained unchanged until the framework had been established, and it was confirmed that the moratorium was due to be reviewed next year.

Councillor Mahmood submitted a proposal, which was seconded by Councillor Kauser that the moratorium be increased from 2 years to 3 years.

The Chair put the proposal to the meeting and by 2 votes for to 4 votes against with 2 abstentions it was lost.

The Chair reiterated his commitment to Councillor Mahmood in providing the relevant information relating to equalities impact assessment that had been undertaken and in response to a further request relating to information on an independent assessment, the Chair agreed to provide this when it was available.

Upon further consideration, it was

1186 **RESOLVED:-**

That the Committee considered the proposal put forward by Mr Rashid to allow a limited exemption from the requirements of the moratorium for those drivers meeting the criteria detailed at 5.3; and

That if the Committee is minded to agree the request, consideration should be given to adopting the recommendations made at 5.2 to 5.4 in this report.

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**REAR LOADING WHEELCHAIR ACCESSIBLE VEHICLES REPORT**

1187 The following report of the Assistant Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

The Chair confirmed that the above-mentioned item had been withdrawn due to further information being provided from the trade and that the report would be submitted to Committee at a future meeting.

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**LPPC BUDGET MONITORING OUTTURN 2018-2019 REPORT**

The following report of the Service Director of Regulation and Enforcement and Chief Financial Officer was submitted:-

(See Document No. 5)

David Jones, Finance Manager, provided a comprehensive breakdown of the outturn report and, in response to comments from Members advised:-

He reported on the 1974 pub bombings and stated that there were several legal charges to be submitted and confirmed that they would ensure all the bills were available before the final claim was submitted to Government for reimbursement.

He referred to the Coroners Service and confirmed that it was a working pressure and although they had identified mitigations, it was a pressure that had to be carefully monitored, adding that there was the statutory obligation to fund the service.

He referred to the underspend and confirmed that there were a number of income items which included Environmental Health and Trading Standards that came through the court's system, which was a large factor in increase in surplus at the year end, adding that there were other factors, but that was the main one and that it was not a controllable source of income.

He referred to ring-fencing and confirmed that they did try and make sure that the ring-fencing was transparent and alluded to Appendix 4 of the report. He was of the opinion that the level of transparency needed to be expanded to the

whole of licensing and it was something they were going to look at during this financial year.

He provided a brief explanation as to what happened to the surplus corporately which generally went into funding projects through policy contingency, highlighting that the process was handled by a different team.

He referred to the teams that had large vacancies and highlighted that it was mainly the Registration Service which were shortly going to be recruiting and although Environmental Health were going through a small restructure, understood that some vacancies there would be filled shortly.

He reported on the apprenticeship levies and confirmed that the budget was given to the committee which was to meet the costs they had incurred during the year, and that all council services were contributing to the scheme. He added that it was just the costs that were being charged to the committee during the year and then at the year end, it was added up and given the £38,000 to fund the scheme.

The Chair stated that under 'Chairman's Actions' a letter had been written to the Ministry of Justice in order to continue pursuing the payment of costs, highlighting that some payments had already been received.

At this juncture, Steve Hollingworth, Assistant Director of Regulation and Enforcement referred to 5.6 of the report, and confirmed that the generated surplus from Hackney Carriage and Private Hire would be held under the reserves for licensing and not the general fund, as indicated.

A brief discussion ensued relating to the importance of services and the request by the public for more enforcement across the city in all of the different areas.

In response to the above, the Chair confirmed that there was continuous discussion with the Leadership regarding the resourcing and that the Leader was very supportive of increased enforcement action especially public facing, and whilst, he could not speak for budgetary decisions as they related to the Cabinet, would certainly impress those matters on Members' behalf.

Mark Croxford, Head of Environmental Health whilst explaining the reasoning behind the underspend and over-spend in pest control and having to balance that off with environmental health, alluded to the 8 vacancies that had to be kept available last year for any displacement in the savings from the waste enforcement unit.

When the savings remained in the waste enforcement unit, 5.4 officers have been transferred into those vacancies. It was holding the vacancies for a year that led to the under-spend together with the income that came from the Courts. He added that they had not been allowed to recruit due to the fact that there would be some displacement in March after the savings were confirmed.

Upon further consideration, with the inclusion of the corrected information in 5.4 of the report, it was:-

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**RESOLVED:-**

- (i) That the revenue outturn overspend of £0.441m as detailed in Appendix 1 be noted;
  - (ii) that the expenditure on grant funded programmes in Appendix 2 be noted;
  - (iii) that the position on Capital projects, as detailed in Appendix 3 be noted;
  - (iv) that the position on reserves, as detailed in Appendix 4 be noted.
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**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:  
MARCH – APRIL 2019**

The following report of the Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Emma Rohomon, Acting Head of Licensing, provided a comprehensive breakdown of the report and, in response to Members' comments made the following points:-

She referred to the definition of a 'fit and proper' person and confirmed that the committee makes a decision on the information that is put to them at the time.

She referred to the case that had been overturned and stated that the decision letter and minutes of the meeting that were available to the district judge, in his opinion, did not expand enough on the reasons given by the committee. She confirmed that this was something that they would take forward and action to ensure that they are able to respond to the appeals in the most appropriate way.

Sanjeev Bhopal, Committee Lawyer, referred to the Rehabilitation Offenders Act and spent convictions which were never considered spent with regard to establishing whether somebody is considered to be 'fit and proper', and as advised by officers, it was a determination of a case by case basis, based on the information put before Members and the judgement would be made on the information and presentations made.

He referred to the guidance available which would be reiterated as part of the Member' training which provided detail on how exactly to determine how someone is 'fit and proper'.

The Chair highlighted that it all pointed to a training issue which would be addressed in due course and subsequently thanked Members for their contributions to the meeting.

Upon further consideration, it was



1189

**RESOLVED:-**

That the report be noted.

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**PROSECUTIONS AND CAUTIONS REPORT – MARCH & APRIL 2019**

The following report of the Acting Service Director of Regulation and Enforcement was submitted:-

(See Document No. 7)

Steve Hollingworth, Acting Service Director of Regulation and Enforcement made introductory comments relating to the report and subsequently referred to various prosecutions and cautions.

In response to Members' comments, Emma Rohomon confirmed that although there was no specific requirement for people to notify the operator that they were travelling with a dog, as operators had a duty of care to carry the dog, unless they had a certificate of exemption to demonstrate this, it made good sense to do so beforehand.

Following comments from Councillor Mahmood regarding the excellent work undertaken by Waste Enforcement and whether additional officers were being trained to carry out waste enforcement duties, Steve Hollingworth referred to the staff that had been transferred to Waste Enforcement and that they would continue to deliver as many prosecutions as they could within the resources available.

In response to an enquiry from Councillor Leddy regarding the City Council's responsibility on Health and Safety at Work Act and the Government's Agency, Mark Croxford subsequently explained the differences, highlighting that very high risk premises and manufacturing premises were covered by the health and safety executive, and distribution centres and local shops were covered by the local authority, whereby they would also investigate accidents and undertake a programme of inspections for the very high risk premises.

Following comments from Councillor Mahmood requesting quarterly information on business premises that had been prosecuted for littering offences, the Chair stated that it would be useful to be alerted to any 'hot spots' from particular premises across the city.

Upon further consideration, it was

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**RESOLVED:-**

That the report be noted.

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**SCHEDULE OF OUTSTANDING MINUTES**

## **Licensing and Public Protection Committee – 12 June 2019**

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 8)

Steve Hollingworth, Assistant Director of Regulation and Enforcement, referred to the Outstanding Minute No 1169 and confirmed that a report would be submitted to the committee meeting in September 2019.

1191 **RESOLVED:-**

That all Outstanding Minutes be continued.

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1192 **OTHER URGENT BUSINESS**

No urgent business report.

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**AUTHORITY TO CHAIR AND OFFICERS**

1193 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

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**EXCLUSION OF THE PUBLIC**

1194 That in view of the nature of the business to be transacted which included exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3