

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE 14 FEBRUARY 2018

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 14 FEBRUARY 2018 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp, Alex Buchanan, Liz Clements,
Ian Cruise, Des Flood, Carol Griffiths, Nagina Kauser,
Changeese Khan and Mike Leddy.

NOTICE OF RECORDING/WEBCAST

- 970 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES

- 971 Apologies were received from Councillor Ian Cruise for having to leave the meeting at 1130 due to prior commitment, Councillor Des Flood for lateness and Councillors Nawaz Ali, Basharat Dad, Linda Clinton, Chaman Lal and Rob Sealey for non-attendance.

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

MINUTES

- 972 The Minutes of the meeting held on 17 January 2018, with the insertion of the corrected page one tabled at the meeting, and having been previously circulated were confirmed as a correct record and signed by the Chairman.

REVIEW OF LICENSING AND PUBLIC PROTECTION FEES AND CHARGES 2018/2019

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

(See document No. 1)

Mark Croxford, Head of Environmental Health, provided a detailed presentation of the report.

In response to comments from Members of the Committee, the following points were made:-

Chris Neville, Acting Director of Regulation and Enforcement confirmed that there was hardly any out of hours metrology and provided a brief explanation as to why this was, adding that it was there as a safety precaution.

Mark Croxford referred to the high volume of puppies that were being bred which were more than what was expected and with conditions being very poor it was taking longer for them to reach a standard that met the licence conditions.

Mark responded to concerns relating to fly-posting, graffiti and the need for Amey to exercise more enforcement on the highways. He suggested that it would be useful to obtain some statistics in order to present to the Director of Highways in addressing this issue.

He added that he did not have the data to hand regarding prosecutions however, agreed to obtain this and cascade back to the Committee. He highlighted that although all officers were working hard with the sharing of information concurred there was still need for improvement.

Joyce Amadedon, Head of Service, agreed to consider including the photograph fee within the UK Citizenship Ceremony fee. She referred to the Nationality Checking fees, and stated that whilst they were slightly higher than neighbouring authorities there were income achievement targets that had agreed and had to be met. She added that where they could reduce fees they would and subsequently agreed to revisit the charges.

Parmjeet Jassal, Head of City Finance, referred to the 1974 Inquest costs and stated that the estimated costs incurred was £1.2m at the present time although this may be more when additional invoices were received.

She further stated that latest estimate from the Ministry of Justice was £2.3m which included the cost of the appeal. She added that if the Coroner lost or failed in the appeal, the cost would increase significantly depending upon the scope of the inquest. She added that they were confident that the funding was more likely to be forthcoming than not.

It was suggested and subsequently agreed by the Chair, that a further communication be forwarded to the Government requesting a speedy response with regard to confirmation of payment.

Joyce Amadedon, referred to the Bereavement Service and the costing of the children's burials which would be under £200,000 and would be contained within the existing budget, although they would be looking to increase income in other areas of the service.

The Chair put the recommendations to the meeting all were unanimously agreed except for 2.1 (iii) where there was one abstention:-

973

RESOLVED:-

- 2.1 That the changes on the fees and charges as detailed below be approved to take effect from 1 April 2018:-
- (i) Trading Standards Services as detailed in Appendix 1.
 - (ii) Environmental Health and Pest Control Services as detailed in Appendix 2 (excluding Appendix 2a Fixed Penalty Notices).
 - (iii) Register Office Services as detailed in Appendix 3; statutorily set charges are shown in Appendix 3(a) and a benchmarking comparison is shown in Appendix 3(b).
 - (iv) The Coroner's Service as detailed in Appendix 4.

Councillor Buchanan proposed and it was seconded by Councillor Leddy was put to the vote and by a show of hands was declared to be carried and be agreed as follows:

- 2.2 That Committee considered and agreed the Tariff for Unauthorised Distribution of Free Literature FPNs at a recommended level of £100.00.

That Committee considered and agreed the Tariff for Graffiti and Flyposting FPNs at a recommended level between £100.00.

That Committee considered and agreed the tariff for Litter FPNs at a recommended level between £100.00.

That the Committee considered and agreed the tariffs for all other fixed penalties in appendix 2a at the level described.

That Committee agreed to not offering a discount for early payment of an FPN.

That Committee agreed that the new tariffs for all FPNs were effective from 1 April 2018.

That authority be delegated to the Director of Regulation and Enforcement and Heads of Service to authorise the negotiation of variations to the fees and charges identified in this report, in the interests of commercial flexibility.

PENALTY POINTS SYSTEM FOR LICENSED DRIVERS AND VEHICLE PROPRIETORS

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

(See document No. 2)

Shawn Woodcock, Licensing Enforcement Manager, presented a detailed report and subsequently responded to appropriate comments and questions from Members of the Committee.

Shawn confirmed that the trade had been made aware of the proposed Penalty Points system.

He highlighted that it was very rare that they received any notification from the Police or DVSA when a vehicle had been stopped for a vehicle offence and that the object of the Penalty Points system, was to pick up where drivers were not licence compliant.

He referred to the breach of 'plying for hire' and whilst explaining the breach which would always result in action being taken, suggested that it may be best removed altogether from the Penalty Points system.

He confirmed that they could revisit the Penalty Points system against various breaches. He highlighted that the system did not affect the conditions of licence whatsoever but was a tool to address the lower level breaches, and in turn, improve health and safety for all.

Chris Neville, Acting Director of Regulation and Enforcement explained why he would caution against applying discretion detailed in Appendix 2 of the report suggesting that it should only be exercised by the Sub-Committee.

Chris Neville referred to the policy, procedures and delegations that had been approved at Committee in June whereupon up to 6 points, officers had delegated authority to grant the licence, and over 6 points it was dealt with by the Sub-Committee.

Shawn made reference to the Penalty Points system, stating that the City would be the first local authority in the West Midlands to introduce the system albeit there were a number of these schemes that had been introduced nationally.

Chris Neville highlighted that there was a Quality Rating scheme being introduced for operators which was just awaiting approval and when it was introduced would contribute to providing some control.

Following a brief discussion relating to wheelchair passengers and disabled passengers, Chris Neville confirmed that within the scheme there was a proposal to award 12 penalty points to 'failure to carry an assistance dog without requisite medical exemption certificate.'

Shawn highlighted that drivers transporting passengers with wheelchairs should undertake a dynamic risk assessment based on the conditions presented before him.

He further highlighted that due to the changes in the Equality Act it was now an offence for a driver of a hackney carriage to refuse to carry a wheelchair passenger or a disabled passenger and if this was the case, they would be prosecuted. He added that this should be included within the offences of the Penalty Points scheme.

Following a brief discussion relating to the above, Chris Neville suggested that within the preamble to the tables with the offences, it stated that this was not a substitution for prosecution and would in no way affect Birmingham City Council's enforcement policy.

The Chair concluded by thanking Shawn for a very comprehensive report.

The Chair put the recommendations to the meeting and it was unanimously agreed:-

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RESOLVED:-

That Committee approved in principal the introduction of a penalty points system for licensed drivers and vehicle proprietors.

That Committee instruct Licensing Enforcement to consult with the trade and the wider public for a period of six weeks, to consider a penalty points system as outlined in Appendix 1 and subject to the preamble outlined by Chris Neville.

That a final version with comments from the consultation be brought back to committee for ratification and to agree an implementation date.

**REVIEW OF HEALTH AND SAFETY INCIDENT INVESTIGATION WORK 1
JANUARY 2016 – 31 DECEMBER 2017**

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

(See document No. 3)

Mark Croxford, Head of Environmental Health, provided a detailed presentation of the report.

Mark highlighted the work that was being undertaken with regard to work place violence and that it was the responsibility of employers to consider whether there were any health and safety risks to their employees.

The Chair concluded by thanking Mark for a very comprehensive report and for the excellent work that had been achieved.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

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RESOLVED:-

That the report be noted.

UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS

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

(See document No. 4)

Mark Croxford, Head of Environmental Health, provided a detailed presentation of the report and subsequently responded to appropriate comments and questions from Members of the Committee.

Mark confirmed that although it was not a legal requirement to provide transit sites, within the Birmingham Development Plan there was an assessment of need to provide permanent and transit sites. He highlighted that the City had a duty of care to meet those needs and provide the correct number of pitches for the needs across the City.

He referred to the unauthorised encampments and detailed the three pathways that had to be considered in dealing with this area of work otherwise the City would be open to judicial review.

He referred to the purpose of a negotiated stopping site which was an overflow and helped to protect the community as well as being able to accommodate for a short period of time.

Mark made reference to the current legislation which did not allow encampments to be directed outside of the borough. He stated that the Police Crime Commissioner, West Midlands was trying to encourage the neighbouring authorities to all accommodate transit sites and was proposing to try and get the legislation changed, in order that boundaries could be crossed.

The Chair concluded by thanking Mark for presenting the report.

The Chair put the recommendations to the meeting and it was unanimously agreed:-

976

RESOLVED:-

That the report is noted and Outstanding Minute Number 935(ii) be discharged.

That Committee request a further report to be brought in 3 months to update on the various work items contained within this report.

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING DECEMBER 2017

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

(See Document No. 5)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments relating to the report and highlighted some of the cases therein.

The Chair thanked Chris for reporting.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

977

RESOLVED:-

That the report be noted

FIXED PENALTY NOTICES ISSUED DECEMBER 2017

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

(See Document No. 6)

Mark Croxford, Head of Environmental Health made introductory comments relating to the report and highlighted the cases therein.

In response to the Chair's enquiry relating to fly-posting being included within the reports, Mark agreed that it should be reported at committee.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

978

RESOLVED:-

That the report be noted

PROSECUTIONS AND CAUTIONS – DECEMBER 2017

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

(See Document No. 7)

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

In response to concern raised at a previous meeting relating to the Bull Ring and associated litter issues, Chris Neville agreed to share the appropriate briefing note with Members.

Mark Croxford made reference to food hygiene at premises near schools and confirmed that all food premises were controlled by risk assessments and highlighted that if premises were rated 'high risk' then they would be subject to a sixth monthly inspection, adding that all takeaways were prioritised with regard to food hygiene.

He referred to the litter patrols that operated outside of the city centre and the work associated in addressing this issue.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

979

RESOLVED:-

That the report be noted

ACTIONS TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE DURING JANUARY 2018

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

(See Document No. 8)

Chris Neville, Acting Director of Regulation and Enforcement presented the report.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

980

RESOLVED:-

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 9)

Chris Neville, Acting Director of Regulation and Enforcement , updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes.

It was -

981 **RESOLVED:-**

That Outstanding Minute No. 935(ii) be discharged with the replacement of a new Minute and the remaining Outstanding Minutes to be continued.

OTHER URGENT BUSINESS

Russell Hume Ltd

982 At the request of the Chair, it was confirmed that an up to date position of the above-mentioned establishment would be provided.

AUTHORITY TO CHAIR AND OFFICERS

983 **RESOLVED:-**

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

The meeting ended at 1240 hours.

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CHAIRMAN