

BIRMINGHAM CITY COUNCIL

**LICENSING AND
PUBLIC PROTECTION
COMMITTEE
17 FEBRUARY 2016**

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY, 16 FEBRUARY 2016 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Nawaz Ali, Bob Beauchamp, Alex Buchanan,
Lynda Clinton, Mahmood Hussain, Nagina Kauser, Tony
Kennedy, Mike Leddy, Gareth Moore, Rob Sealey and Anita
Ward.

NOTICE OF RECORDING

- 611 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. The whole of the meeting would be filmed except where there were confidential or exempt items.

APOLOGIES

- 612 Apologies were received from Councillors Basharat Dad, Bruce Lines and from Councillor Neil Eustace (for lateness).

DECLARATIONS OF INTEREST

- 613 There were no declarations of interest submitted by Members

MINUTES

20 January 2016

- 614 The Minutes of the meeting held on 20 January, having been previously circulated, were confirmed as a correct record and signed by the Chairman.

**RESEARCH FINDINGS ON THE EFFECTS OF SHISHA SMOKING IN THE
INDOOR AND OUTDOOR MICROENVIRONMENT OF SHISHA PREMISES**

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

(See document No.1)

Janet Bradley, Operations Manager Environmental Health and Public health (Tobacco and Alcohol Control), made introductory comments relating to the report and made a short presentation to Members outlining the research undertaken by Environmental Health and students from Birmingham University to determine the potential to cause harm to employees and customers who frequent and work within Shisha premises from the environmental tobacco smoke as well as the results of the research. This work had been undertaken under the duty of the Local Authority to ensure workplaces are compliant with the Smoke free Regulations 2007 enacted under the Health Act 2006.

(See document No.2)

Members expressed their thanks to officers and the students from Birmingham for their work and for Birmingham taking the initiative for this work. Concerns were expressed however concerning other breaches of regulations at these premises and the need for further enforcement action to be taken with regard to the Shisha lounges to ensure that no regulations were being flouted and to identify locations and owners of all of these premises. Further that the recommendations be strengthened to indicate that work undertaken by Health and Wellbeing and Planning Committees on Shisha Lounges rather than just being for consideration and that the report also go to the Health and Wellbeing Board and Scrutiny.

Members were advised by Ms Bradley that significant enforcement action had been undertaken regarding Shisha Lounges over a number of years and a large resource had been allocated to both enforcement and information regarding the Shisha Lounges to owners. A report on the enforcement activity would be brought to Committee in June 2016. Additionally, the shisha report would be submitted to Health and Wellbeing Committee and Planning Committee with a re-worded recommendation.

In response to questions from Members regarding the safety of electric shishas and the location of some of these premises being in residential areas open for young people to enter Members were reassured that Trading Standards had looked at the product safety of electric shishas and that Environmental Health worked closely with Planning colleagues to ensure that the premises were all compliant with the Smoke Free Regulations. With regard to young people on site whilst they were allowed to be inside Shisha Lounges the sale of tobacco to under 18s was prohibited.

The Chair put the recommendations contained in the report at agenda item No 4 to a vote, with an amendment to recommendation 1 and these were agreed unanimously.

615

RESOLVED:-

- (i) That the report is presented to the Chairs of the Health and Wellbeing Committee and Planning Committee for consideration **and exploration**.
- (ii) That Committee endorses action by Environmental Health to work with partners to provide a harm reduction package for shisha users, employees in shisha businesses and shisha business owners to effectively reduce the potential harm from the activity of smoking shisha or secondary smoking.
- (iii) That a further update report detailing potential harm reduction strategies is brought to Committee by June 2016.

PUBLIC HEALTH RESPONSIBLE AUTHORITY ALCOHOL TOOL

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

(See document No. 3)

Janet Bradley, Operations Manager Environmental Health and Public Health (Tobacco and Alcohol Control), introduced this report and informed Members of the Alcohol Licensing Tool developed by Public Health to provide data and evidence for response to applications for the grant, variation, minor variation or review of premises license and club premises certificates. The tool would also be used to provide information to other responsible authorities for their consideration with regard to these applications. The information provided by the tool would be relevant to the current 4 licensing objectives and provide additional information on the alcohol related harm in the locality and wider area of the applicant or licensed premises.

With regard to questions as to how this tool would be used under the licensing objectives, the quality of the data and concerns regarding the absence of data where crime was not reported Members were advised that: the aim was to maximise the existing objectives under the Licensing Act 2003 to enable consideration of interventions which served to promote the licensing objectives and improve public health simultaneously; that the quality of the data would be noted within any report and that in some cases where poor or no data was available there would still be a need for local knowledge from local agencies and Councillors.

The Chair put the recommendation contained in the report at agenda item No 5 to a vote and this was agreed unanimously.

616

RESOLVED:-

That a training session is provided for the Chair and Members of Licensing and Public Protection Committee to demonstrate the Public Health Alcohol Licensing Tool.

SAFETY OF HOVERBOARDS

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

(See document No. 4)

Vir Ahluwalia, Operations Manager, made introductory comments relating to the report informing Members of the actions that had been taken by Trading Standards following concerns raised nationally about hoverboards which have been linked to serious safety issues. As most of these were imported from China Trading standards had been working with the port authorities to identify products destined for Birmingham and then take appropriate action.

Members questioned what further actions were being undertaken by Trading standards once the hoverboards had arrived in Birmingham to address the safety issues, consumer rights for hoverboards bought from outside of the UK and the use of hoverboards on the pavements and the highway. In response Mr Ahluwalia informed the Committee that although initial work had been around preventing further supply of the hoverboards this had then be followed up by looking at the technical problems with these in conjunction with local authorities across the country; that faulty products bought from outside of the UK needed to be addressed with the retailer direct and hoverboards should not be used on the pavements and highways and this was a message that Trading Standards were trying to get out to the public.

The Chair suggested that the recommendation within the report needed to be strengthened and Councillor Kennedy proposed that the recommendation include 'liaison with the Police, Highways Agency and Responsible Authorities to develop a collaborated policy on this and apply it'. An updated report to Committee would then be required. This was seconded by Councillor Ward.

The Chair put the amended recommendation contained in the report at agenda item No.6 to the meeting and this was agreed unanimously.

617

RESOLVED:-

- (i) That the report be noted and that the information gathered be shared with the Police, Highways Agency and Responsible Authorities to develop a collaborated policy on hoverboards and apply it.
- (ii) An updated report to be brought to Committee.

LICENSING AUTHORITY DELEGATIONS HACKNEY CARRIAGE AND PRIVATE HIRE

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

(See document No. 5)

Emma Rohomon, Licensing Manager, made introductory comments to the report which addressed one of the points of the multi-point action plan relating to a CSE report presented to LPPC in January 2016, concerning the delegation of decision making powers. The report further updated the Committee of the findings of the working party on this subject.

Members welcomed the report but suggested that a review be undertaken after 12 months and concerns were expressed by some Members that the neutrality of the licensing sub-committee was questioned and also in cases where Members were representing constituents with regard to a licensing application.

It was stressed by Ms Rohomon that the report was not suggesting undue influence but merely attempted to eliminate the impression of bias, thereby preventing any unnecessary pressure on Members. Further that this procedure would form part of the annual Policies, Procedures and Delegations report to LPPC. Members were advised by the Committee Lawyer that this would not negate Members' constitutional ability to represent their constituents but eliminate the appearance of influence.

In response to comments regarding the different licensing regimes for premise and drivers it was reiterated by Ms Rohomon that as drivers case were heard in private meetings with premises licence requests being heard in the public domain it was even more important to have an impression of transparency.

The Chair put the recommendations contained in the report at agenda item No. 7 to the meeting and these were agreed unanimously.

618 **RESOLVED:-**

- (i) That the Committee approves the proposal to delegate, with immediate effect, the matters at 5.7(a) and (b) to officers, with these delegations to be included within the annual Policies Procedures and Delegations report to the Licensing and public Protection Committee.
- (ii) That Officers be instructed to draft a Code of Conduct for Members of the Licensing and Public Protection Committee, to be brought to a future Licensing and Public Protection Committee for agreement with a view to being presented to the Council Business Management Committee for inclusion in the constitution.
- (iii) That the proposed revision to the Constitution as detailed in paragraph 5.19 be presented to the Council Business Management Committee to be considered for inclusion in the constitution.
- (iv) That an information pack be produced and circulated to all Elected Members detailing the Roles and Responsibilities of the Licensing Authority (the Licensing and Public Protection Committee).

GOVERNMENT AIR QUALITY

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

(See document No.6)

Mark Wolstencroft, Operations Manager, Environmental Protection, introduced this report advising Members of the Local Authority duty to monitor the air within its district and assess the concentration of pollutants against a legal limit. In order to demonstrate the Government have had to submit Air Quality plans to EU, the latest being in December 2015. Mr Wolstencroft advised Members that 1 aspect of this Plan had been the mandating of a Clean Air Zone (CAZ) within Birmingham with the proposal to restrict access to Buses, coaches, HGV, LGV and taxis dependent upon their emissions as directed by the euro class of the vehicle.

Members raised questions regarding:

- the reduction required in the numbers of vehicles to reduce the levels of nitrogen dioxide NO₂ to meet the annual average emission limit set by the EU,
- possible changed policy regarding the age of hackney carriage and private hire vehicles given that £500,000 funding would only cover 80 hackney carriage vehicles and the impact of this on drivers,
- possible incentives via discount on licence fees
- concerns that the removal of car parks from the city centre would simply move the problem elsewhere
- the need to compare with actions by other local authorities

Mr Wolstencroft informed Members that the full information on the NO₂ emission requirements for Birmingham would be available in 1-2 weeks; that the Local authority would have to work out a policy on the standard age of drivers' vehicles; the 80 hackney carriage vehicles to be converted to LPG had been self-selected on maximum benefit for the costs i.e. those most polluting combined with the age of the vehicle.

Members were further advised by Mr Neville that the authority was still in discussions with Defra regarding the impact of the proposals, upon agreement these would be conveyed to the LPPC Committee to decide the actions needed to be undertaken. That consideration would be given to a temporary reduction on the drivers' licence fees for the purchase of more emission efficient cars.

With regard to car parks and action by other local authorities Mr Wolstencroft indicated to Members that Local Authorities had been requested in March 2015 to produce a list of items showing how they would improve Air Quality via a range of interventions and this was simply one of the options available which would be considered. All other local authorities with clean air zones had been identified and research undertaken regarding their scoping exercises for this.

Members were very concerned about the impact of this proposal regarding restriction of vehicles to the City Centre and felt that these roads should be fully passable to all vehicles. The impact of reduced traffic on business in the City Centre needed to be a major consideration in any changes to the City roads.

The Chair put the recommendations contained in the report at agenda item No. 8 to the meeting and these were agreed unanimously.

619

RESOLVED:-

- (i) That Committee support further work to be undertaken by your Officers and by other Council Officers in working alongside Defra to fully scope the extent and composition of any CAZ.
- (ii) That an update/progress report be brought to Committee within four months.

REVIEW OF LICENSING AND PUBLIC PROTECTION FEES AND CHARGES 2016/2017

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

(See document No.7)

Alison Harwood, Acting Director of Regulation and Enforcement introduced this report informing Members of the fees and charges for 2016/17 within the control of the LPPC Committee.

Members questioned: the likelihood of Pest Control achieving its income targets; how the shortfall in the Register Office Service budget of 0.400m would be made up; and confirmation that the same situation would not reoccur in 2016/2017 and whether the budget set for 2016/17 was realistic. A motion was also put forward to set up a Working Group to address the

The Committee were reassured that although Pest Control had a challenging target every effort would be made to meet it through increased and new services. With regard to the register office Ms Harwood stated that officers were working hard to avoid the situation of not meeting their target income which had been partly to do with statutory set fees for services but the service was also looking at alternate provisions and a more commercialised service. Councillor Leddy suggested that as there was now a remit to extend the policy regarding Sexual Entertainment Venues (SEVs) beyond the boundaries of traditional SEV premises, that a working group be set up to look at the possibilities regarding this.

Members were advised however that increases in service alone would not meet the budget targets the service was also dependent on savings as well a combination of increased prices and improvement in services would be needed to balance the budget.

The Chair put the recommendations contained in the report at agenda item No. 9 to the meeting and these were agreed unanimously.

620

RESOLVED:-

- (i) That changes to fees and charges as below be approved to take effect from April 2016:
 - 1.1 Trading Standards Service as detailed in Appendix 1
 - 1.2 Environmental Health Service as detailed in Appendix 2
 - 1.3 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).
 - 1.4 Birmingham Account Team (formerly Surveying Services) as detailed in Appendix 4.
- (ii) That the tariffs for Fixed Penalty Notices, as detailed in Appendix 2a be set at the levels specified for the year 2016/2017. (all FPNS have been set at the maximum prescribed tariff with no discount for early payment except where a statutory discount applies.)
- (iii) That authority be delegated to authorise the negotiation of variations to the fees and charges identified in this report, in the interests of commercial flexibility.
- (iv) That a working group be set up to look possible changes to the Sexual Entertainment Venues policy.

REVIEW OF LICENSING SERVICE FEES AND CHARGES 2016/2017

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

(See document No.8)

Chris Neville, Head of Licensing, made introductory comments to the report regarding the review of the licensing service fees and charges levied by the Licensing and Public Protection Committee under the Corporate Charging Policy and Financial regulations to ensure full recovery of costs, to take effect from 1 April 2016.

In response to a suggestion by Councillor Moore that any surplus from the licensing fees should be used as an incentive to reduce fees for more efficient vehicles, Mr Neville advised him that under the Cardiff case the service could only return the surplus in the way it was collected, this action would seek to provide an incentive to certain drivers whilst the fees was paid by all. However, he was happy to take this option away to consider.

The Chair put the recommendations contained in the report at agenda item No. 10 to the meeting and these were agreed unanimously.

621

RESOLVED:-

- (i) That the changes to the Licensing Service fees and charges be approved to take effect from 1 April 2016 as detailed in Appendices 1, 1(a), 1(b) & 1d.
- (ii) That the Licensing Service fees and charges as detailed in Appendix 1(c) and 1(e) be noted.
- (iii) That the calculation of licence fees utilises brought forward credit balances for Hackney Carriage and Private Hire that have been allocated on the basis set out in paragraph 1.23.
- (iv) That the pricing strategy as detailed in paragraph 1.27 and 1.28 of Appendix 1 be approved and retained.

PROSECUTIONS AND CAUTIONS – DECEMBER 2015

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

(See document No. 9)

Alison Harwood, Acting Director of Regulation and Enforcement, made introductory comments relating to the report.

The Chair put the recommendation contained in the report at agenda item No. 11 to the meeting and this was agreed unanimously

622

RESOLVED:-

That the report be noted.

FIXED PENALTY NOTICES ISSUED DECEMBER 2015

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

(See document No.10)

Chris Neville, Head of Licensing, made introductory comments to the report which set out a breakdown of fixed penalty notices issued in the City during December on a Constituency/Ward basis.

Members were informed that 4438 fixed penalty notices had been issued during this period.

The Chair put the recommendation contained in the report at agenda item No. 12 to the meeting and this was agreed unanimously.

623

RESOLVED:-

That the report be noted.

OUTCOME OF APPEALS – DECEMBER 2015

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

(See document No.11)

Chris Neville, Head of Licensing, made introductory comments relating to the report.

The Chair put the motion contained in the report at agenda item No. 13 to the meeting and this was agreed unanimously.

624

RESOLVED:-

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following scheduled of Outstanding Minutes was submitted:-

(See document No. 12)

Chris Neville, Head of Licensing moved that Minute No. 602 be discharged as per the report presented at the Committee and that with regard to Outstanding Minute No.603 that this report be scheduled for June 2016.

The Chair put the motion contained in the report at agenda item No. 14 to the meeting and this was agreed unanimously.

625

RESOLVED:-

That Outstanding Minute No 602 (ii) be discharged and all other outstanding Minutes be continued.

OTHER URGENT BUSINESS

The Chair was of the opinion that the following item could be considered as a matter of urgency as the proposed fees included Private Hire Operator licences which needed to take effect by 1 October 2015.

Food Premises

Councillor Moore raised concerns regarding butchers/abattoirs following closure by the Food Standards Agency and Planning being unable to

communicate with Regulatory Services regarding this issue and investigations concerning correct and hygienic food preparation by butchers' premises. Mr Neville advised that he had no specific details regarding the mentioned cases but would ensure that the Head of Environmental Health contacted Councillor Moore regarding the details.

AUTHORITY TO CHAIRMAN AND OFFICERS

626

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 1250 hours.

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CHAIRMAN