

# BIRMINGHAM CITY COUNCIL

**LICENSING AND  
PUBLIC PROTECTION  
COMMITTEE  
15 JULY 2015**

**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY, 15 JULY 2015 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, Basharat Dad, Neil Eustace, Mahmood  
Hussain, Nagina Kauser, Tony Kennedy, Mike Leddy, Gareth  
Moore, Rob Sealey and Anita Ward.

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**NOTICE OF RECORDING**

529 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.birminghamnewsroom.com](http://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.

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**APOLOGIES**

530 Apologies were received from Councillor Bruce Lines.

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**DECLARATIONS OF INTEREST**

531 There were no declarations of interest submitted by Members

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**MINUTES**

**17 June 2015**

Councillor Moore pointed out an error on Minute no. 507 regarding apologies for Councillor Bruce Lines and stated that these were for lateness – not non-attendance.

Ms Bhomra, the Committee Lawyer pointed out some amendments on page 353 regarding late or lost documents and procedures for interim steps hearings. This was amended to read: '.....additional documentation for the day before a hearing was accepted by Licensing Services, but documents presented on the day required another party's consent, or if lost in transit, may be accepted at the discretion of the Chair. With regard to expedited reviews, Members were advised that the interim steps hearing had to be held within 48 hours of the request but ideally could be heard on the same day of the application'.

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The Minutes of the meeting held on 17 June, having been previously circulated and amended as agreed at the meeting, were confirmed as a correct record and signed by the Chairman.

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**LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS**

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

(See document No.1)

Chris Neville, Head of Licensing made introductory comments relating to the report and outlined to Members the policies, procedures and delegations in relation to licensing, regulatory and registration powers highlighting the changes to the Poisons Act and additional information regarding M.O.T. testing.

In response to questions from Members regarding drivers understanding of the change in the MOT policy and working groups to look at Sexual Entertainment Venues (SEVs) Mr Neville advised Members that with regard to the MOT policy drivers were aware that the additional information regarding the MOT certificate had been omitted from the previous policy but this was in fact the procedure that had been implemented and drivers were aware of this. In relation to the SEV working groups Members were informed that a series of reviews had commenced initial work on this was being carried out by officers with dates being planned for member involvement and target dates for reports to the committee.

The Chair put the recommendations contained in the report at agenda item No 5 to a vote and these were agreed unanimously.

533

**RESOLVED:-**

- (i) That the Committee notes the policies approved by City Council:
  - relating to the Gambling Act 2005 and approved in 2013;
  - regarding Sexual Entertainment Venues and approved in 2014;
  - relating to the Licensing act 2003 and approved in 2015;
- (ii) That the Committee note the changes to the Poisons Act as detailed in paragraph 17 of Appendix 1 to this report.

- (iii) That the amendment to paragraph 3.16.1 of Appendix 1, as detailed in paragraph 4.7 be agreed.
- (iv) That the Committee approves the policies and procedures contained in Appendix 1 related to all other matters.

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**LICENSING FEES AND CHARGES INCLUDING OBJECTION TO HACKNEY CARRIAGE & PRIVATE HIRE FEES AND CHARGES**

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

(See document No. 2)

Chris Neville, Head of Licensing, introduced this report and informed Members that following the Committee decision on 18 March 2015 regarding the adjustment of fees for all relevant licensing functions and the required advertising of the fees and charges prior to implementation, (under Section 70 of the Local Government (Miscellaneous Provisions ) Act), a number of objections had been received.

The majority of these had been regarding price, including a petition with 117 signatories but an objection had also been received from A2Z Licensing on behalf of Star Cars based on the High Court judgement with regard to Cummings v Cardiff City Council on 18 June 2014 in respect of taking into account any surplus or deficit generated from fees levied in previous years when determining its fees.

Mr Neville advised Members that as a result of this objection it was now proposed that of the carry forward balance of £341,000, one third of this would be included in the fee calculations for 2015/2016, leaving a balance of £227,000 which would be sufficient reserves to cover costs for a replacement licensing software package and the move of licensing services to new premises.

He further informed Members that the report encompassed Section 10 of the Deregulation Act 2015 which would come into force on 1 October 2015, requiring councils to grant driver licences for 3 years and private hire operator licences for 5 years, the latter of which had not previously been included.

Concerns were expressed by Councillors regarding the significant difference in the fees to those proposed to the Committee in February and if in fact, all the final opinions had now been received on this from counsel. Mr Neville expressed his apologies to Members regarding the reversal of the decision made in February and indicated that officers had not been aware of the Cardiff City Council decision at the time of setting these fees, this had now been acknowledged and the surplus balance taken into account. In regard to the latest legal advice Members were advised that reference had also been made to the case of Hemming v Westminster City Council which was as yet unresolved and had been referred to the European Court of Justice.

Councillor Moore voiced concern that the current actual surplus was in the region of £568,000 and that this was a large amount to hold in reserve whilst imposing a substantial increase in fees and charges for private hire drivers and operators and formally proposed that the fees for 2015/2016 be frozen.

Mr Neville that the service was working to the principles of best practice in terms of setting the fees - based on the latest financially audited accounts from 2013/2014. He strongly advised Members to adhere to rather than the fees being set based on estimates for 2014/2015 – the audited figures for which would not be available until September 2015.

A detailed debate ensued with Members on the merits of otherwise of reliance on unaudited accounts when making this decision and the Committee adjourned at 1028 for members to discuss this within their party groups. The meeting recommenced at 1031 hours.

Councillor Moore then formally proposed the motion, seconded by Councillor Beauchamp, that the fees and charges for 2015/2016 for hackney carriage and private hire drivers be frozen. Upon being put to the vote, with 4 votes for the motion and 10 votes against, the motion was not carried.

The Chair put the recommendations contained in the report at 2.1 and 2.2 and 2.2 (i) at agenda item No 6 to the meeting and with 10 votes for, 2 against and 2 abstentions declared them carried.

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**RESOLVED:-**

- (i) That Members are asked to consider the objections appended to this report.
- (ii) That Member are asked to consider the proposal at 4.9 and agree the revised fee structure as detailed in appendix 1, to be effective from 1<sup>st</sup> September 2015 (subject to the statutory notice period).

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**CURRENT POSITION REGARDING REGISTRATIONS UNDER THE SCRAP METAL DEALERS ACT 2013**

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

(See document No. 3)

Chris Neville, Head of Licensing made introductory comments relating to the report advising Members of the current position regarding registrations under the Scrap Metal Dealers Act 2013.

Mr Neville notified Members of the remit under the Proceeds of Crime Act 2002 for the limited use of the assets recovered under the act to be used for the investigation of other offences and the proposal to use some of this resource for enforcement activity against unlicensed scrap metal dealers.

During the course of the discussion that ensued the following points were noted:-

- Expansion of the data sharing agreement to include other agencies
- The idiosyncrasy of licensing fees not being able to be used for enforcement activities and the possibility of writing to the relevant Minister regarding this.
- That a more co-ordinated and pro-active approach to manage the problems of unlicensed scrap metal collection (incorporating the complete supply chain) needed to be put into place with enhanced investigation of materials received by licensed collectors.
- The requirement for personal identification and vehicle signage required to clearly identify licensed collectors and collection vehicles.
- The need for a joint approach between licensing services and planning to identify illegal scrap metal dealing businesses being operated from home.

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

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**RESOLVED:-**

- (i) That the report be noted.
- (ii) That outstanding minute 448 (ii) be discharged.
- (iii) That the funding arrangements detailed in paragraph 8.3 be agreed.

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**LICENSING OF ADDITIONAL PRIVATE HIRE OPERATOR SUB-OFFICES**

Chris Arundel, Principal Licensing Officer, informed Members that this report had been deferred to a future meeting as a result of a request received from A2Z Licensing, on behalf of Star Cars, to visit the Star Cars premises in Erdington to observe how they monitored the telephone calls and computer use of their homeworking staff prior to this matter being considered by Committee.

Following some discussion it was proposed by Councillor Kennedy and seconded by Councillor Anita Ward that the site visit be delegated to Officers.

The Chair put the motion to the meeting and this was agreed unanimously.

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**RESOLVED:-**

That Licensing Officers conduct a site visit to the Star Cars' premises in Erdington to observe the operator's monitoring of their homeworking staff.

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**FOOD LAW ENFORCEMENT PLAN 2015/2016**

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

(See document No. 4)

## **Licensing and Public Protection Committee – 15 July 2015**

Nick Lowe, Operations Manager (Food Lead) made introductory comments relating to the report setting out the City's commitment to Food Safety Enforcement for 2015/16. This included the number of food hygiene and food standards interventions required and the areas of work considered essential to protecting food safety in Birmingham as well as a review of performance against targets set for 2014/2015.

Members raised questions regarding: a separate report on the Environmental Health initiative regarding the poorest performing food premises within the 12 wards of the City; an integrated approach to businesses, alongside other services, e.g. including waste disposal; the backlog of 466 food inspections from 2014/2015; work with catering organisations and any complaints regarding incorrect food labelling regarding halal food.

In response to these Members were informed:

- A full outturn report would be provided to the Committee on the enforcement initiative work supporting the poorest performing businesses.
- The work with businesses included areas other than food safety and food hygiene including health and safety aspects and waste management.
- That while a number of inspections were due each year there was a need to manage this within the available resources; additionally not all targets that were set were statutory and some of the backlog had occurred as a result of a change in computer systems and problems with data transference. The high risk back log however for 2014/2015 had been completed early in 2015-2016.
- Work with catering organisations was carried out through business support events as well as the business improvement districts of Broad Street and Soho.
- That none of the premises prosecuted for food labelling had been regarding halal food. However, there had been an investigation by Trading Standards regarding this – Mark Croxford, Head of Environmental Health, agreed to supply the information regarding this item to Councillor Ali.

The Chair put the recommendation contained in the report at agenda item No 9 to the meeting and this was agreed unanimously.

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### **RESOLVED:-**

That the Food Law Enforcement Plan be agreed.

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### **HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2015/2016**

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

(See document No. 5)

Simon Williams, Operations Manager (Health and Safety) made introductory comments relating to the report setting out the City's Health and Safety Law Enforcement Plan for 2015/16 including the plans to support businesses to meet their health and safety requirements and work undertaken by the service to ensure the health and welfare of employees, residents and visitors to the City of Birmingham.

Members thanked Mr Williams for the report and the outstanding work with the Primary Authority Partnerships. Questions were raised regarding: data on infectious diseases; the support provided to businesses with regard to accidents at work; the health and safety of students on work experience placements; work on monitoring air pollution and the enforcement of health and safety with regard to self-employed homeworkers.

In reply Members were informed:

- That infectious diseases were dealt with jointly in conjunction with the Food Safety team.
- A separate report would be brought to the Committee regarding the data on Tuberculosis cases within Birmingham.
- That the health and safety enforcement team generally got involved with accidents at work after they had occurred but information on the prevention of accidents was displayed on the Regulatory Services' website.
- The take-up of work experience placements within the City was very limited and although advice had been provided on work programmes to local schools due to the low take-up this had not been identified as a local priority with regard to health and safety enforcement.
- Air Pollution e.g. at car auctions would be added to the list of health and safety interventions.
- That the Deregulation Act 2015 had given self-employed homeworkers exemptions from certain health and safety laws, particularly where there were no risks to the public. With regard to Birmingham no issues had been identified with regard to homeworkers or received any reports of accidents at work.

The Chair put the recommendation contained in the report at agenda item No 10 to the meeting and this was agreed unanimously.

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**RESOLVED:-**

- (i) That the report be noted and the Health and Safety Law Enforcement Plan for 2015/2016 be agreed.
- (ii) That the Director of Regulation and Enforcement be requested to submit a report on the data regarding Tuberculosis cases within Birmingham.

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**REVENUE BUDGET MONITORING 2015/2016 (MONTH 2)**

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

(See document No.6)

David Jones, Finance Manager, made introductory comments relating to the report advising Members of the latest revenue budget position at the end of May 2015, the position with regard to the savings programme for 2015/16 and the position on reserves and balances.

The Chair raised concerns regarding Pest Control resources following the return of the devolved budget from districts to the centre and sought assurance that all resources that had been devolved had in fact been returned. She also queried the allocation of any funds from the grant of £596,000 (that had been received by the City Council as a result of the Deprivation of Liberty Safeguard (DLS) legislation) to the Coroners Service given that the implementation of this legislation had resulted in additional pressures for this service.

Mr Williams assured the Chair that he was in the process of investigating the pest control figures and upon completion would be able to provide a definitive answer on this matter and bring this to Committee. With regard to acquiring the funding for the Coroners Service from the grant received by the Council, Members were informed that the total amount had been placed in the Place Directorate and a response to Mr Jones' query regarding some reallocation of this funding to the Coroners Services had not been received.

During the course of the discussion that ensued the following points were raised:-

- The intended savings from the reorganisation of the Pest Control service.
- Actions being undertaken by officers to resolve some of the budget pressures and plans in place to relieve some of the budget pressures.
- The current overspend of £559,000.
- The continuance of the grant as a result of the DLS legislation.
- The income target set for Pest Control for 2015/16 despite the failure of the service to meet a lower target in 2014/15.
- That the problems regarding the high income targets set for Pest Control had been continuously raised by the Committee with the City Council.

In response to these Members were informed:

- That the Pest Control Service was in the process of being restructured as the current status of the service would be unable to provide the income target that had been set by the City Council. Furthermore, the structure would be not in place in the current financial year.
- The DLS grant was a one-off payment and it was hoped that a proportion of this would be reallocated to the Coroners Service as a result of additional time and administration incurred as a result of the DLS legislation.
- That with regard to the budget pressures, finance would work with officers to identify solutions to overcome budget pressures to bring to the Committee.



- That the deficit in the budget for Registrars and Pest Control had been as a result of a reduction in the volume of requests for the service.
- That a report could be brought to Committee to address the over expenditure to date and to inform the Committee of the precise current status regarding this.

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**RESOLVED:-**

- (i) To note the latest Revenue budget position at the end of May 2015 (Month 2) as detailed in Appendix 1 of the report.
- (ii) To note the position with regard to the Savings Programme for 2015/16 as detailed in Appendix 2 of the report.
- (iii) To note the position on reserves and balances, as detailed in Appendix 3 of the report.
- (iv) That the Director of Regulation and Enforcement and the Director of Finance be requested to submit a report on the over expenditure in the budget as at Month 2 and to inform the Committee of the precise status of the budget to date.

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**PROSECUTIONS AND CAUTIONS – MAY 2015**

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

(See document No. 7)

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

Councillor Clinton queried the enforcement protocol regarding the prosecution of those caught fly-posting and was advised by Mr Croxford that with regard to the case referred to this had been an act of commercial fly-posting for which the offender had been paid - this would be deemed illegal and would always result in prosecution.

Councillor Moore welcomed the action undertaken regarding the animal welfare offence, this had been a known problem of which he had been made aware via several reports and had also been reported to the Dog Warden service and he was pleased therefore that this had resulted in enforcement action. He further highlighted that the area was named Abbey Fields and asked for the report to be amended accordingly.

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**RESOLVED:-**

That the report be noted.-

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**OUTCOME OF APPEALS – MAY 2015**

## **Licensing and Public Protection Committee – 15 July 2015**

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

(See document No.8)

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

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### **RESOLVED:-**

That the report be noted.

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## **FIXED PENALTY NOTICES - MAY 2015**

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

(See document No.9)

Mark Croxford, Head of Environmental Health, informed Members that 506 penalty notices had been issued in the City during May 2015.

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### **RESOLVED:-**

That the report be noted.

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## **ACTION TAKEN BY THE CHAIR OF LPPC – JUNE & JULY 2015**

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

(See document No.10)

Chris Neville, Head of Licensing introduced the report and informed Members of action taken by the Chair under authority from Licensing and Public Protection Committee and why this authority was used.

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### **RESOLVED:-**

That the report be noted.

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## **SCHEDULE OF OUTSTANDING MINUTES**

The following scheduled of Outstanding Minutes was submitted:-

(See document No. 11)

544 **RESOLVED:-**

That Outstanding Minute No. 448 (ii) be discharged and all other Outstanding Minutes be continued.

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**OTHER URGENT BUSINESS**

545 There was no other urgent business.

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**AUTHORITY TO CHAIRMAN AND OFFICERS**

546 **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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The meeting ended at 1217 hours.

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CHAIRMAN