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BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY 18 NOVEMBER 2015

AT 1000 HOURS

**COMMITTEE ROOM 1
COUNCIL HOUSE
BIRMINGHAM**

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Reminder: Members must declare all relevant pecuniary and/or non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

**Wednesday 18 November 2015 at
1000 hours in Committee Room 1
Council House, Birmingham**

A G E N D A

1. NOTICE OF RECORDING

The Chairman to advise that this meeting will be webcast for live or 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 will be filmed except where there are confidential or exempt items.

2. APOLOGIES

Attached

3. MINUTES

To confirm and sign the Minutes of the meetings held on 16 September 2015.

To Follow

4. STATEMENT OF LICENSING POLICY – CUMULATIVE IMPACT AREAS PRE-CONSULTATION REPORT

Report of the Acting Director of Regulation and Enforcement.

To Follow

5. STATEMENT OF GAMBLING PRINCIPLES PRE-CONSULTATION REPORT

Report of the Acting Director of Regulation and Enforcement.

To Follow

6. TUBERCULOSIS IN BIRMINGHAM – AN UPDATE

To Follow

7. CRIMINAL COURTS CHARGE

Report of the Acting Director of Regulation and Enforcement.

- To Follow** 8. **ACTION TAKEN BY THE CHIEF OFFICER IN CONSULTATION WITH THE CHAIR OF LPPC DURING SEPTEMBER AND OCTOBER 2015**
- Report of the Acting Director of Regulation and Enforcement.
- To Follow** 9 **PROSECUTIONS AND CAUTIONS – AUGUST/SEPTEMBER 2015**
- Report of the Acting Director of Regulation and Enforcement.
- To Follow** 10. **OUTCOME OF APPEALS – AUGUST/SEPTEMBER 2015**
- Report of the Acting Director of Regulation and Enforcement
- To Follow** 11. **FIXED PENALTY NOTICES ISSUED – AUGUST/SEPTEMBER 2015**
- Report of the Acting Director of Regulation and Enforcement.
- To Follow** 12. **REVENUE BUDGET MONITORING 2015/16 (MONTH 6)**
- Report of the Acting Director of Regulation and Enforcement and Director of Finance.
- Attached** 13. **SCHEDULE OF OUTSTANDING MINUTES**
14. **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
15. **AUTHORITY TO CHAIRMAN AND OFFICERS**
- Chairman to move:-
- ‘In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee’.

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE 16 SEPTEMBER 2015
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**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY, 16 SEPTEMBER 2015 AT
1000 HOURS IN COMMITTEE ROOMS 3 AND 4,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Nawaz Ali, Alex Buchanan, Basharat Dad, Neil Eustace, Mahmood Hussain, Nagina Kauser, Mike Leddy, Bruce Lines, Gareth Moore and Anita Ward.

NOTICE OF RECORDING

547 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

548 Apologies were received from Councillors Bob Beauchamp, Lynda Clinton, Tony Kennedy, Bruce Lines (for lateness), and Rob Sealey.

DECLARATIONS OF INTEREST

549 There were no declarations of interest submitted by Members

MINUTES

15 July 2015

550 The Minutes of the meeting held on 15 July, having been previously circulated, were confirmed as a correct record and signed by the Chairman.

THE CONSUMER RIGHTS ACT 2015

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

(See document No.1)

Vir Ahluwalia, District Services Area Manager, made introductory comments relating to the report and outlined to Members the developments in consumer rights reforms with particular reference to the Consumer Rights Act 2015 which had consolidated, amended and replaced the legislation covering consumer rights and remedies, with 1 main element of this being consumers being given a 30 day right to reject faulty goods.

Mr Ahluwalia also highlighted other provisions within the Act which had consolidated and amended investigating powers of officers and powers of entry in relation to routine visits and the extension of powers to officers via their ability to investigate breaches of legislation outside of their own Local Authority.

In response to questions from Members regarding the amendments within the Act regarding prior notice of inspection visits and the evasion of redress through changing companies; Members were reassured that this would only occur in respect of routine visits only and would not apply should officers suspect a breach of any trading standards legislation. Mr Ahluwalia stressed that whilst the majority of officers' work was intelligence-led and would therefore be exempt from this requirement, some of the pro-active work undertaken by Trading Standards e.g. the hallmarking of jewellery would require this notice to be given and this was of some concern to officers.

With regard to problems concerning traders who sought to avoid redress through closing companies and then re-trading as a new company Mr Ahluwalia advised Members that this could only be tackled via highlighting the issue with Companies House or via direct redress against an individual through civil action.

Members raised concerns regarding the impact of the 30 day consumer right to return goods with regard to the motor trade and the resulting reduced value of the returned goods. Furthermore, the impact of an additional warranty on the vehicle upon a customer's statutory rights was queried. Mr Ahluwalia stressed that advice and information would be provided to businesses with the emphasis on thorough pre-delivery checks of vehicles to protect their business and protect themselves from any scams. With regard to the vehicle warranty this would not waive the customer's statutory rights, however in the case of minor faults customers might choose to accept a trader's offer of redress rather than return the goods and still maintain their statutory rights.

The Chair put the recommendations contained in the report at agenda item No 4 to a vote and these were agreed unanimously.

551

RESOLVED:-

- (i) That Committee makes representations to Government urging funding for the Trading Standards service to be able to meet likely extra demand for business advice from local traders and also for enforcing the provisions relating to letting agencies.
- (ii) That Committee expresses its disappointment that Government has chosen to go ahead with the introduction of a two day notice for routine inspections and that the offence of obstruction has been reduced to a level 3 offence.

REPORT ON THE IMPLEMENTATION OF THE DOG CONTROL ORDERS AND TO CONSIDER THE EXEMPTION ON THE RESTRICTION ON FOUR DOGS

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

(See document No. 2)

Mark Croxford, Head of Environmental Health, introduced this report and provided Members with an overview of the implementation of Dog Control Orders (DCOs) had come into effect on 1 March 2014 and advised Members of a request from commercial dog walkers, under The Dogs (Specified Maximum) Order 2014, to have more than four dogs. This dispensation would then be introduced as a permit scheme with conditions and restrictions attached – this had been introduced already by Wandsworth Council in London.

He further advised Members that the DCOs had been well received and highlighted some of the enforcement activities that had been undertaken in 2014-15 including 676 cautionary letters, increased signage across the city regarding the DCOs, pro-active exercises in dog-fouling hotspots and the issuing of 31 Fixed Penalty Notices.

Mr Croxford informed Members that following the request from the commercial dog walkers to increase the number of dogs, a public consultation had been undertaken on this with 35 professional dog walking companies of which 11 had responded, together with the Friends of Parks and Birmingham Open Space Forum. Of the responses received from the dog walkers 7 out of the 11 had not wanted to take out more than 4 dogs. The issue for consideration therefore was the balance between public protection issues against the wish to support small local businesses.

Members were generally of the opinion that no more than 4 dogs should be allowed per individual as more than this would be difficult to manage alone and public safety should be paramount. Further concerns were expressed about dog-fouling in the parks together with the impact of more than 4 dogs if not under control, on children, the elderly and those using mobility scooters. In addition to this it was noted that the majority of the commercial dog walkers

concerned had not responded and therefore showed a lack of interest in changing the status quo and unless there was a major demand for change this should remain.

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

552

RESOLVED:-

That following consideration by Committee to allow a dispensation scheme for commercial dog walkers to have more than 4 dogs, it was agreed, due to the comments expressed by Members as above, that the number of dogs should remain at no more than 4.

DISTRIBUTION OF FREE PRINTED MATTER – RESULTS OF CONSULTATION AND PROPOSALS FOR THE BROAD STREET AREA

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

(See document No. 3)

Mark Croxford, Head of Environmental Health, introduced this report and informed Members of the results of the statutory consultation exercise in April 2015 regarding the introduction of a Free Printed Matter Consent Scheme in the Broad Street area with residents and businesses in the vicinity. Nine responses had been received, the majority of which were in favour of a free literature control zone. Mr Croxford stressed however, that in order for this to be implemented the Authority needed to be satisfied that Broad Street was being defaced by the distribution of free literature.

Comments from the Trade Group, representing the businesses on Broad Street, had indicated that most marketing was conducted online. Furthermore, street surveys undertaken in July and August 2015 had shown a marked improvement in literature defacing the street - only 4 businesses had been found to doing this and of these 3 had been issued with Community Protection Notices requiring them to take pro-active steps to maintain a litter and literature free area within 100 meters of their business. Should they fail to do this individuals could be issued with a fine of up to £2,500 and businesses be fined up to £20,000 for failing to maintain the street scene.

Officers therefore recommended that Broad Street was not sufficiently defaced by literature to enable a free printed matter consent scheme within the area.

Concerns were expressed by Members regarding: Sexual Entertainment Venues (SEVs) touting for business via distribution of literature, the requirement for the West Side BID to a committed budget for street cleaning on Broad Street and the need for a twin-pronged approach regarding this issue of both introducing a free printed matter consent scheme zone and targeting individual businesses through community protection notices in order to ensure that these issues did not reoccur in the future.

Members were advised that warnings had been issued to 4 SEVs found distributing literature, which had subsequently ceased; that West Side BID had a commitment to maintaining the street scene in Broad Street as this was of advantage to their member businesses and that whilst a twin-pronged approach would be possible it would be difficult to defend a legal challenge to impose the scheme when it could not be evidenced.

The Chair put the recommendations contained in the report at agenda item No. 6 to a vote and with a vote of 7 for and 1 against for 553 (i), and a unanimous vote for 553 (ii) these were agreed.

553

RESOLVED:-

- (i) That committee agrees that the street scene in the Broad Street Area is not sufficiently defaced to enable the declaration of a Free Printed Matter Consent Scheme in the surveyed area.
- (ii) That the report be noted and referred to the Cabinet Minister for Transportation and Street Services for information.

STATEMENT OF GAMBLING PRINCIPLES PRE-CONSULTATION REPORT

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

(See document No. 4)

Chris Neville, Head of Licensing made introductory comments relating to the report advising Members of the requirement, under the Gambling Act 2005, by the City Council as the Licensing Authority to determine and publish its Statement of Gambling Principles at least every three years.

Members were advised that the current statement needed to be reviewed and a new policy published by 3 January 2016 to come into force by 31 January 2016. During 2015, the Gambling Commission had been updating its guidance to local authorities on how to prepare these principles which would be considerably more reflective of local circumstances – however the changes would be so significant and the research required so extensive, that it would not be possible to prepare the revised principles and consult on them by the January 2016 deadline.

Mr Neville informed Members that the statement presented therefore incorporated all the required legal amendments - with the intention to commence work on a more in-depth Statement of Gambling Principles for the following year. The new statement would include a local area profile mapping the risks with regard to gambling harm on a geographical level for each area of Birmingham, based on a range of criteria. Operators applying for gambling licences would need to undertake risk assessments and provide evidence of mitigation of risks identified within their local area as part of their application.

The consultation on the existing Statement of Gambling Principles had commenced on 1 September for an 8 week period, during which Members and the public would have had an opportunity to make comments. The results of the consultation would be presented to the November meeting of Licensing and Public Protection Committee and presented to full Council in December.

Members questioned the possibility of limiting the number of establishments within an area; the need for a cumulative impact policy to protect the vulnerable with some responsibility for this being undertaken by the operators of these establishments; the process for the local area risk assessments and concerns over betting terminals and refreshments to delay customers within gambling establishments.

Mr Neville advised Members that under the current legislation there were no provisions for a cumulative impact policy and this would continue to be the case with the revised policy, however the revised procedures would require operators applying for a licence to provide evidence of the measures they would put in place to protect vulnerable groups within the local area. The methodology for the risk assessments would follow a national template to address particular local concerns e.g. indebtedness, which the operator would need to address in his application and confirm control measures which would be put in place to alleviate this and provide evidence of their role in the wider community to support particular local issues. Members were informed that the betting terminals were now limited to 4 per establishment and the provision of refreshments would be noted as part of the new review.

The Chair put the recommendation contained in the report at agenda item No. 7 to the meeting and this was agreed unanimously.

554

RESOLVED:-

That Committee consider the Statement of Gambling Principles attached at Appendix 1 to this report and suggests such amendments as the Committee considers necessary.

MODERNISATION OF LICENSING APPLICATION PROCESSES

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

(See document No. 5)

Chris Neville, Head of Licensing, made introductory comments relating to the report detailing some of the actions undertaken by the Licensing services to reduce costs and make better use of officer time in line with Service Review recommendations. These included: the first stages of a channel shift process enabling drivers to apply for and renew licenses online, online payments via credit and debit cards, a move to new offices and the introduction of a new licensing computer system saving time and expense.

Members welcomed the modernisation of licensing processes and felt that communication via email would ensure delivery and receipt of important information. A move to a paperless system was suggested with the possibility of charges for hard copy communication and postage to recover costs. However, it was felt that those without access to online facilities should be directed to training and a staged approach should be taken possibly allowing for cash payments for an interim period.

Mr Neville informed Members that as part of the new licensing system all drivers had been asked to provide an email address as this was felt to be the best way forward in terms of communication. With regard to cash payments, these would require a full security system to be put in place for this to happen and would require the service to invest a large sum of money for a short term service.

The Chair put the motion contained in the report at agenda item No. 8 to the meeting and this was agreed unanimously.

555

RESOLVED:-

That the report be noted.

REVENUE BUDGET MONITORING 2015/2016 (MONTH 4)

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 July 2015, the position with regard to the savings programme for 2015/16 and the position on reserves and balances.

Mr Jones informed Members that the Licensing and Public Protection Committee (LPPC) had spent £2.374m as at the end of July 2015 compared to a profiled budget of £1.747m, resulting in an overspend of £627,000. The budget pressures related predominantly to the under recovery of income, particularly income from fees and charges for Pest Control and the Registrars Service – with the target savings of £1.300m for Pest Control being unlikely to be achieved in 2015/16. The Coroners Service had had additional pressures on the service as a result of some major inquests in the first part of the year and a change in legislation for which some income had been agreed in principle. However, a £1.780m overspend was forecast for the year end.

Members expressed concern that the report concluded a year end overspend of more than £1.6m and that it was unlikely for the savings target for 2015/16 for LPPC to be met, given the recommendations that had been made by officers and accepted by the Committee.

Members also questioned the measures being put in place to recover income and expressed their disappointment at the deterioration of the budget that had

been set and asked what actions were being undertaken to resolve the budget problems.

The Chair stressed to Members that the issue of the savings targets for Pest Control had been advised several times at committee and numerous representations regarding this as an unrealistic target had been made to the Leader of the Council.

Jacqui Kennedy, Service Director of Regulation and Enforcement stated that Members had been advised of the challenging savings target set for Pest Control at the start of the budget setting process and that the savings were linked to the service review process, which would not be completely in place until 2016/17. Members were informed that the service would be going to Star Chamber on this matter with evidence that this target could not be achieved in the current financial year. Ms Kennedy further stressed that the service was working hard to maximise income, had put on a recruitment freeze and work was being carried out with all of the managers in each area of pressure to mitigate the loss of income, all of which would help to improve matters in the second half of the financial year.

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

556

RESOLVED:-

- (i) To note the latest Revenue budget position at the end of July 2015 (Month 4) 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.

PROSECUTIONS AND CAUTIONS – JUNE/JULY 2015

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

(See document No. 7)

Jacqui Kennedy, Service Director of Regulation and Enforcement, made introductory comments relating to the report.

Councillor Moore thanked Ms Kennedy for the work undertaken by Regulation and Enforcement with regard to prosecutions and cautions; particularly with reference to fly-tipping and noted with interest the case of the company fined £20,000 for this offence and was advised by Ms Kennedy that this had been a case of fly-tipping on the public highway.

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

557

RESOLVED:-

That the report be noted.

FIXED PENALTY NOTICES – JUNE/JULY 2015

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

(See document No.8)

Mark Croxford, Head of Environmental Health, made introductory comments to the report which set out a breakdown of fixed penalty notices issued in the City during June and July 2015 on a Constituency/Ward basis.

Members were informed that 1152 fixed penalty notices had been issued during this period.

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

558

RESOLVED:-

That the report be noted.

ACTION TAKEN BY THE CHIEF OFFICER IN CONSULTATION WITH THE CHAIR OF LPPC: JULY 2015

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

(See document No.9)

Chris Neville, Head of Licensing introduced the report and informed Members of action taken by the Chief Officer in consultation with the Chair under authority from the Licensing and Public Protection Committee with an explanation as to why this authority was used.

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

559

RESOLVED:-

That the report be noted.

OUTCOME OF APPEALS – MAY/JUNE/JULY 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 relating to the report.

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

560

RESOLVED:-

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following scheduled of Outstanding Minutes was submitted:-

(See document No. 11)

561

RESOLVED:-

That all the 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.

Objection to Hackney Carriage and Private Hire Fees and Charges

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

(See document No.12)

Chris Neville, Head of Licensing, made introductory comments relating to the report and informed Members that the new proposed fees agreed by Committee on July 2015 had been advertised in accordance with the relevant legislation and one objection had been received. The Committee needed to consider this objection before taking a decision whether to implement the fee structure approved on 15 July 2015.

Mr Neville advised the Committee that one third of the figure referred to in the objection, of £500,000 carry forward balance, had been incorporated into the fee structure agreed by Committee on 15 July, around £200,000 had been earmarked for new IT for the licensing service and with costs for relocation of the licensing office relocation the remainder would soon disappear. Furthermore, if the objection was accepted this would require a further revision and publication of the fees prior to implementation.

In the ensuing discussion Members expressed some sympathy for the objection given the reserves available in the licensing budget and whilst accepting that some of this had been delegated to specific projects, conveyed support for the request by the objector for more investment in enforcement and advocated an increase in the number of enforcement exercises carried out throughout the year.

Members were informed by Mr Neville that the comments made regarding enforcement had been taken on board; however this would require a separate revenue stream and would be incorporated into the licensing structure with effect from 1 April 2016.

Ms Kennedy reassured the Committee that the licensing service carried out several enforcement activities throughout the year, other than Christmas, but this was restricted by the overtime limit for enforcement officers; however this would be considered as part of the service transformation.

The Chair put the recommendation contained in the report at agenda item No. 14 to the meeting and with a vote of 4 in favour, 2 against and 2 abstentions this was agreed.

562

RESOLVED:-

That the fees and charges approved by the Licensing and Public Protection Committee on 15 July 2015 set out in Appendix 1 of the report be implemented with effect from 1 October 2015.

Director of Regulation and Enforcement

Jacqui Kennedy, Service Director of Regulation and Enforcement advised Members that this would be her last meeting for a few months given her new role in the Place Directorate and introduced the Committee to the new Acting Director of Regulation and Enforcement Alison Harwood who had previously worked in the Bereavement, Coroners and Registrars Service within Regulation and Enforcement. The Chair also welcomed Ms Harwood to Regulation and Enforcement and looked forward to working with her in the future.

AUTHORITY TO CHAIRMAN AND OFFICERS

563

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 1208 hours.

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CHAIRMAN

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

18 NOVEMBER 2015

SCHEDULE OF OUTSTANDING MINUTES

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
365(ii) 25/06/2014	<u>Committee Policy</u> – Service Director of Regulation and Enforcement to review the policy in respect of the engine size and age of private hire vehicles and report to Committee.	Report to be submitted December 2015.
387(ii) 16/07/2014	<u>Cost awarded in Legal Proceedings</u> – Service Director of Regulation and Enforcement be requested to report on the percentage of the costs received against those awarded in legal proceedings	Information to be submitted December 2015
455 21/01/2015	<u>Smartphone Technology</u> – Service Director of Regulation and Enforcement to submit a report on the use of Smartphone Technology in the private hire sector and impact on Committee policies.	Verbal update November 2015
496 (ii) 15/04/2015	<u>Cumulative Impact Policy</u> – Service Director of Regulation and Enforcement to report on the implementation of Cumulative Impact Policies for the Digbeth Area, Erdington High Street and parts of Stratford Road and Ladypool Road (known as the Balti Triangle).	See Agenda Item 4
538 (ii) 15/07/2015	<u>Tuberculosis Cases within Birmingham</u> Service Director of Regulation and Enforcement to report on the data regarding Tuberculosis cases within Birmingham.	See Agenda Item 6
539 (iv) 15/7/2015	<u>Budget Monitoring and Budget Pressures 2015-2016</u> That the Director of Regulation and Enforcement and the Director of Finance 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.	See Agenda Item 12