

## Licensing Regulatory Committee

### RECORD OF DECISION

**Date Of Meeting: 30<sup>th</sup> June, 2016**

**Agenda Item: 7 – Application for a Street Collection: Royal British Legion, Poppy Appeal 2016**

#### **Findings of any relevant facts:**

- An application had been made to the Licensing Authority for a Street Collection Permit on behalf of The Royal British Legion, Poppy Appeal 2016.
- The dates requested were Saturday 5th - Saturday 12th November 2016 (inclusive).
- A copy of the full application was attached as Appendix 1 to the Officer's report and was considered by Members.
- Members were required to exercise their powers to hear applications to vary any limitation or term imposed on a consent, licence or permission, in accordance with Minute No. 1.3 (ii) of the current allocation Policy for street collections/flag days.
- The application outlined the organiser's intention to carry out street collections including the offerings of poppies from trays and collection of monies in sealed receptacles throughout the week, leading up to Remembrance Day.
- The Police, Factories and (Miscellaneous Provisions) Act 1916 allowed local authorities to make regulations regarding street collections, where and conditions under which, persons may collect money or sell articles for the benefit of charity "or other purposes".
- The current allocation policy for street collections/flag days was determined by Minute No. 150 (1990/91) and Minute No. 80 (1993/94) of the Licensing Sub-Committee as follows:-
  - a) That it be adopted as policy that once a particular date had been allocated to a charity, no further application from other charities for the same date would be permitted.
  - b) No organisation would be granted more than one collection date in each calendar year.
  - c) That preference would continue to be given to charities who use money collected locally.
  - d) That no more than 50 street collection permits will be granted in a calendar year, such permits to be for collection days either on Fridays or Saturdays. No mid-week collections to be allowed.
  - e) Organisations must comply with the Borough of Barrow-in-Furness Street Collection Regulations and submit a statement of accounts following their street collection in order for similar applications to be considered in future years.
  - f) Minute No. 1.3 (ii) resolves to vary current general allocation policy to enable the Sub-Committee and/or the Panel to receive applications for

additional collections in cases of special celebrations relevant to individual charities from time to time.

- Additional information had been supplied by the applicant in support of their application and was attached as an appendix to the Officer's report and was considered by Members.
- The applicant has been invited to today's Committee but had submitted their representations via e-mail which were attached as appendices to the Officer's report.
- Members questioned Officers about the application and it was confirmed that a week long application had been refused in 2014.

**Committee decision:**

That the Street Collection Permit for the Royal British Legion Poppy Appeal 2016 be granted for the selected dates; Saturday 5th to Saturday 12th November 2016 (inclusive).

**Reasons for decision:**

- There were no other street collection permits granted for those dates.
- There were no other street collection permits allocated for The Royal British Legion Poppy appeal this year.
- To date there were only 15 street collection permits that had been allocated from a maximum of 50, for 2016.
- Members had the delegated authority to vary any limitation or term imposed on any consent, licence or permission.
- Minute No. 1.3 (ii) resolved to vary current general allocation policy to enable the Sub-Committee and/or the Panel to receive applications for additional collections in cases of special celebrations relevant to individual charities from time to time; and
- This year was the Centenary of the Battle of the Somme.

**Reasons for not adopting other available options:**

The Committee felt that a precedent was not being set as the current trend used by Charities for collections seemed to be within Supermarkets, therefore, saw no reason to not allow the application for a week long collection.

Date:

Signed:

(Chairman)

## Licensing Regulatory Committee

### RECORD OF DECISION

**Date Of Meeting: 30<sup>th</sup> June, 2016**

**Agenda Item: 8 – Draft Policy on the Fitness of Hackney Carriage and Private Hire Drivers**

#### **Findings of any relevant facts:**

- Officers had completed a review of the current guidelines on the fitness of applicants for licensed drivers, and have developed a new draft policy for consultation.
- The review was necessary in part, following the findings of the Independent Inquiry into Child Sexual Exploitation in Rotherham commissioned by Rotherham Metropolitan Borough Council in October 2013 (the Jay Report), and specifically in the context of the controls Councils can impose for the licensing of private hire and hackney carriage drivers.
- The Principal Environmental Protection and Licensing Officer's report sought Members approval for the consultation of the draft Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences Policy, including its additional requirement to enable the Licensing Authority to introduce appropriate and necessary training, to continually improve driver standards, knowledge and awareness.
- Members considered Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 which provided that a district council shall not grant a Hackney Carriage or Private Hire Driver licence unless they were satisfied that the applicant was a fit and proper person to hold a licence.
- No definition of 'fit and proper' was offered and the Council's discretion was wide-ranging.
- Members noted that currently, before an applicant could be granted a Hackney Carriage or Private Hire Vehicle Driver's Licence they were required to prove that they were a 'fit and proper person'. Therefore they have to undertake and Enhanced Disclosure and Barring Service Check (DBS), a check with the Driver and Vehicle Licensing Agency (DVLA), a DVLA Group Two Medical and to present a Certificate of Good Conduct from the County where they had resided, if they had lived out of the UK for a period of six months or longer since the age of ten.
- Members noted that the Council had a duty to ensure that those licensed to drive hackney carriages and private hire vehicles were suitable persons to do so.
- The new draft Policy was attached as an appendix to the Officer's report and was considered by Members.
- The new draft Policy was an amalgamation of the current guidelines used by Officers and Members to determine an applicants fitness and covers the following areas:
  - \* Driving Entitlement;
  - \* Character and Licensing History;

- \* Medical Suitability;
  - \* Training Requirements;
  - \* The Right to Work in the UK; and
  - \* Criminal Convictions, Cautions and Reprimands.
- The draft policy was the basis on which all applications were determined, however Members noted that every application must be treated on its own merits, and where decisions may be made that depart from the Policy, that decision should be accompanied by full reasons.
  - All decisions to grant or refuse a licence, including any Officer using delegated powers, would do so in accordance with this policy.
  - Every decision would be recorded stating the facts upon which the decision was made and full reasons for the decision.
  - Those making the decision should be aware that departing without sufficient reason, or failing to give consideration to such circumstances, may give rise to a judicial review of the decision.
  - The Licensing Authority had identified that there was a need for appropriate training within the Hackney Carriage and Private Hire licensing trade, in order to continually improve driver standards, knowledge and awareness.
  - Members considered the details of a new training requirement which was detailed within Section 5 of the draft policy and made note of the following:-
    - \* The Licensing Authority had identified that from time to time there would be a need for specific training within the Hackney Carriage and Private Hire licensing trade, in order to continually improve driver standards, knowledge and awareness.
    - \* Upon application or during the course of their licence, applicants / drivers would be required to undertake appropriate training, as determined by the Licensing Authority.
    - \* Failure to undertake the required training within the specified time may result in suspension / revocation or refusal to renew the relevant drivers licence.
    - \* Where outside bodies, charitable organisations or professional providers were employed by the Council to deliver bespoke training, any costs incurred would be recovered through licensing fees. All costs would be kept to a minimum. The Licensing Authority had adequate in-house facilities to enable cost-effective training.
    - \* The Council would have 'Safeguarding' policies and procedures to ensure the public were protected. This included policies and procedures the Council used to vet licence holders and also a hackney carriage and private hire, drivers ability to identify those at risk, protect those who may be vulnerable or being exploited, ensure that their actions did not negatively contribute to such persons becoming victims and responsibility to report any concerns.
    - \* From the date of adoption of this policy, all applicants ( new and renewal ) for hackney carriage and private hire drivers' licences would be required to attend a Safeguarding Awareness training session. Failure to attend within the specified time may result in suspension / revocation or refusal to renew the relevant drivers licence.
    - \* Safeguarding Awareness sessions would be free of charge, for the first 12 months, following the adoption of this policy. Subsequent sessions would incur a cost recoverable through licensing fees.
    - \* Applicants for hackney carriage and private hire drivers' licences would be required to undergo a written test as part of the process of satisfying the Council that they were suitable persons to hold such a licence. All new

applicants would be required to pass a knowledge test as part of the application procedure.

- \* Existing drivers, from the date of adoption of this policy, would be required to undertake the same knowledge test upon drivers licence renewal. Failure to undertake and pass the knowledge test may result in refusal to renew the appropriate licence.
- \* All applicants would be given the necessary information needed to pass the knowledge test, prior to booking the test. An individual's learning needs would be taken into consideration and adjustments made where necessary.
- \* The test would encompass questions, the majority of which were multiple choice, which would access the drivers' knowledge in the following areas:
  - **Local Geography**
  - **Highway Code**
  - **Licensed Driver Responsibilities and Licence Conditions**
  - **Numeracy**
  - **Disability Awareness**
  - **General**
- \* A maximum number of 3 attempts had been imposed for which applicants (for the grant of a new hackney carriage/private hire drivers licence) were able to undertake the Council's knowledge test (numeracy, highway code, local geography, driver responsibilities etc.), after which there would be a minimum period of six months before any new testing may take place.
- \* Existing licensed drivers, who were required to take the knowledge test upon renewal, would again have a maximum number of 3 attempts to pass and must take this into consideration when applying to renew their licence. To facilitate this, existing drivers can take the knowledge test at any of the sessions before their renewal date. Failure to undertake and pass the knowledge test may result in refusal to renew the appropriate licence.
- \* The knowledge test was conducted at the Council Offices, twice a month. A timetable of knowledge test dates was produced annually. Applicants would not be considered to be fit and proper to hold a licence unless or until they had achieved the requisite pass rate 75% in the test.
- \* The knowledge test was only required to be passed once. However, undertaking and passing the knowledge test may be used as an option that was available to Members, when considering whether or not a driver is a fit and proper person, following justified complaints of conduct or poor character.
- In consideration of the above training requirements, Members were keen that the standards which were required would, in turn, raise the pride in taxi drivers and give them a sense of belonging.
- Members were also keen to enhance the training given to taxi driver to incorporate their tested knowledge on any individual who had a protected characteristic under the Equality Act 2010 (or as amended) and moved, seconded and agreed that this be put into the draft policy.
- Members also suggested that Dementia Awareness Training be provided to Taxi Drivers.
- Members noted that when the Licensing Authority proposed to make significant changes which would effect licence holders, it was appropriate to undertake a public consultation.
- An initial consultation regarding safeguarding awareness and the knowledge test proposals took place between 10<sup>th</sup> March 2016 and 7<sup>th</sup> April 2016, via the Council's Website and directly via Email with:

- Current licence holders (where the Council held email details),
  - Private Hire Operators,
  - Furness Taxi Association,
  - National Taxi Association,
  - Cumbria Police and
  - Cumbria County Council (Safeguarding).
- Only one response (from a taxi driver) was received, albeit a positive one. Details of the response were considered by Members.
  - Officers had considered that only one response may not be representative, however the introduction of this policy would ensure that Safeguarding awareness and training could be adequately addressed.
  - Members agreed that a further public consultation on the draft Policy be carried out.
  - Any amendments would be brought back to the Licensing Regulatory Committee with a recommendation to Council.
  - During consideration of the draft policy, Members were concerned whether the Council had the resources available to deliver this policy internally. The Legal Advisor informed Members that resources had been considered and the policy was manageable internally.
  - Members were also concerned whether adjustments would be put in place for taxi drivers who would not perform well in an examination setting; i.e. use of scribes etc. The Legal Advisor informed the Committee that the tests would not be held in an examination setting but informally with a LA Officer.
  - After discussion with the Legal Advisor, Members felt comfortable that the policy was fair, deliverable and enforceable.

**Committee decision:**

- (i) The amalgamation of current Council guidance and the inclusion of a training requirement within the Hackney Carriage and Private Hire Licensing regime, through the introduction of the Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences Policy be approved;
- (ii) A public consultation of the new draft Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences Policy be approved;
- (iii) Following consultation, the Licensing Regulatory Committee consider responses and amendments to the draft policy and then make recommendations to Council for approval; and
- (iv) That an amendment be made to the draft policy and the paragraph regarding Disability Awareness on Pages 12/13 should read as follows:-

" All applicants will be tested on their knowledge on the carriage of assistance animals and interaction with disabled customers and any individual who has a protected characteristic under the Equality Act 2010 (or as amended)".

**Reasons for decision:**

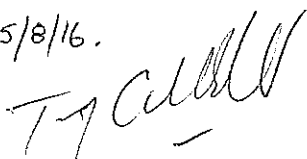
- The Policy was the basis on which all applications were determined;
- The Licensing Authority was promoting its primary objective: the protection of the public;
- Safeguarding issues would be effectively addressed within the Hackney Carriage and Private Hire licensing regime through the new training requirement;
- The Licensing Authority strived to continually improve driver standards; and
- No adverse comments or objections were received as part of the initial public consultation.

**Reasons for not adopting other available options:**

- The policy supported the protection of the human rights of the public who used Hackney Carriage and Private Hire vehicles, particularly children, young people and vulnerable adults.
- The policy aimed to ensure the Council was protecting the public and Members agreed that they could not turn a blind eye to the Rotherham report.
- Members felt that the policy was proportionate, therefore, did not feel the need to adopt other available options.

Date: 5/8/16.

Signed:



(Chairman)

