

Swindon Borough Council

Licensing Committee

Thursday, 14 March 2019

Committee Room 6, Civic Offices, Swindon

At 5.30 p.m.

Conservative Councillors

Alan Bishop
Malcolm Davies
Fionuala Foley
Nick Martin
Brian Mattock
(Vice-Chair)
Caryl Sydney-Smith
Rahul Tarar
Vera Tomlinson
(Chair)

Labour Councillors

Abdul Amin
John Ballman
Paul Dixon
Steph Exell
Imtiyaz Shaikh
Nadine Watts
Peter Watts

Committee Officer: Shaun Banks (Telephone: 07980 752047)

sbanks@swindon.gov.uk

Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2JH
(Telephone 01793 445500)

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

3. Minutes (Pages 3 - 4)

To receive the minutes of the meeting held on 17th December 2018.

4. Public Question Time

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

5. Consideration to review licensing policy to allow licence holders to work for more than one operator at a time (Pages 5 - 10)

6. Review of conviction and caution policy in respect of Hackney Carriage and Private Hire Drivers (Report to follow)

Date of Despatch: 06 March 2019

Public Question Time - Swindon Borough Council remains committed to increasing its accountability to the public and to promoting active citizenship. 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from the public about the work of the Committee (except for confidential matters, and matters relating to planning and licensing applications). We will give priority to those who submit questions in writing at least two days before the meeting. Questions must be relevant, clear, and concise. You may not use Public Question Time as an opportunity to make speeches or statements.

Questions in writing should be sent to the Committee Officer whose contact details appear on the agenda above or to the Director of Law and Democratic Services, we will publish it, along with the answer, alongside the Minutes. The process associated with asking a public question is set out in the "Public Question Time at Council Meetings Protocol and Guidance" available on the Council's Website.

(<http://www5.swindon.gov.uk/moderngov/ecCatDisplay.aspx?sch=doc&cat=13338&path=0>) or from the Committee Officer named above.

Access Arrangements – *The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

LICENSING COMMITTEE

MONDAY, 17 DECEMBER 2018

PRESENT:- Councillors Vera Tomlinson (Chair) Abdul Amin, John Ballman, Alan Bishop, Malcolm Davies, Paul Dixon, Steph Exell, Fionuala Foley, Nick Martin, Brian Mattock, Caryl Sydney-Smith, Rahul Tarar, Nadine Watts and Peter Watts.

An apology for absence was received from Councillors Imtiyaz Shaikh.

22. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

23. Minutes

Resolved – That the minutes of the meeting held on 22nd November 2018, be confirmed and signed as a correct record.

24. Public Question Time

No public questions were received during the meeting.

25. Introduction of a Local Policy in respect of Home Boarding Businesses with Additional Hosts

The Committee considered (a) a report of the Council's Licensing Manager seeking the approval of the Committee to adopt a revised local policy in respect of Home Boarding Businesses with additional hosts following changes to guidance issued by the Department for Environment, Food and Rural Affairs, and (b) the comments of Hillary Coates and Alex Giles (Local Boarding Business representatives).

Resolved – That Council be recommended to adopt a revised Home Boarding Premises Policy, as set out within the report, including (a) an officer inspection of premises prior to any grant or renewal of a licence and (b) authorisation for the Council's Licensing Manager to determine unannounced additional inspections of premises of home boarding premises defined as falling "out of scope" in guidance issued by the Department for Environment, Food and Rural Affairs.

26. Street Trading

The Council's Licensing Manager submitted a report setting out proposals for a revised Street Trading Policy for the Borough following a public consultation and the consideration of responses arising from the consultation by the Committee at its meeting held on 22nd November 2018.

Resolved – That Council be recommended to adopt the revised Street Trading Policy subject to the following amendments:

- (a) That no street trading involving food shall be permitted within 200 metres of an educational establishment;
- (b) That the removal of the restriction on food sales only being permitted where it is

ancillary to a market (this would allow food festivals and food markets within the area designed as markets only);

(c) A market shall require a minimum of 4 stalls to be constituted;

(d) That the designated streets be amended as set out in the report such that those currently designated “under consideration” be prohibited save for the holding of markets; and

(e) That any application by individual street traders for a permit to trade in restricted streets shall be deemed to have been refused unless it has been considered and approved by the Licensing Committee.

27. Taxi Caution and Conviction Policy

With the agreement of the Committee this item was withdrawn.

Consideration to review licensing policy to allow licence holders to work for more than one operator at a time

Licensing Committee

Date: 14 March 2019

Author:	Kathryn Ashton – Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 The purpose of this report is to consider a request to remove the restriction on Private hire licence holders to enable them to work for any number of licensed operators at any one time without restriction.
- 1.2 An email requesting removal of the current restriction has been received from Councillor James Robbins and is shown at Appendix A.

2. Recommendations

That The Committee:

- 2.1 Consider the request for the removal of the restriction as proposed. In principle the Licensing Manager does not oppose this however, the current process works well in respect of safeguarding.
- 2.2 It is recommended that the Committee continue to grant delegated authority to the Licensing Manager to continue to license drivers and to amend any operational procedures required to safeguard the fare paying public.

3. Detail

- 3.1 The requirement to hold a licence is contained in the Local Government (Miscellaneous Provisions) Act 1976,s 46(1)(b)(LG(MP)A1976):
- 3.2 No Person shall in a controlled district act as a driver of any private hire vehicle without having a current licence under section 51 of the LG(MP)A 1976,s51;
- 3.3 Currently all drivers licensed by Swindon Borough Council receive a paper licence which is locally known as the “green form”. Drivers are required to deposit this form with the operator from whom they receive bookings and may only receive bookings from another operator if they transfer their ‘green form’.
- 3.4 The purpose of the ‘green form’ is to ensure that the private hire operator knows that the driver is properly licensed by this authority. Without sight of the licence the operator cannot provide bookings to the driver.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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- 3.5 Officers are of the opinion the overarching principle behind the licensing of private hire and hackney carriage vehicles is one of public safety. As a result the Council has maintained the policy of only allowing one green form per driver. This enables the licensing authority to trace drivers activities closely. This has proved useful where a complaint has been received about a driver or the Police are undertaking an investigation in respect of a driver's behaviour.
- 3.6 For safety reasons it is of paramount importance that all vehicles are recognisable to the general public. Therefore it is currently a mandatory requirement for licensed vehicles to have door signage disclosing the name of the operator on each rear door whilst the driver is receiving bookings through that operator. Allowing a driver and vehicle to work for any operator would render this requirement impractical, compelling drivers to carry signage for each operator that they have lodged a green form with, and to change it if a booking is received from a different operator from the one displayed on the vehicle. This may be overcome if the current mandatory signage of the operator be combined with mandatory signage of pre booked fares only otherwise uninsured. This would still allow operator signage as magnetic signage in addition to the permanent signs.
- 3.7 All drivers have the option of obtaining their own operator licence at a minimal cost of £350 which would give them the flexibility of accepting additional work on a sub-contract basis from any other source.
- 3.8 A currently licensed private hire driver could also obtain a hackney carriage drivers licence at a minimal cost £70 which would also give the flexibility being sought by this policy change which has serious health and safety implications.
- 4.0 Options**
- 4.1 The current policy remains the same.
- 4.2 The restriction is removed to allow licensed drivers to work for all licensed operators at any one time.
- 4.3 The policy relating to mandatory signage be amended with generic signage be compulsory stating pre booked fares only uninsured if not pre booked or wording to be agreed.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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5.0 Consultation with the trade

- 5.1 There has been no separate formal consultation by the Licensing office directly with individual licence holders. As of this date there are 41 Operators licensed by SBC, and 1003 private hire drivers.

6. Conclusion

- 6.1 It is intended that if Members agree to the proposal, any change in conditions will be implemented not sooner than 1st June 2019.

7. Implications, Diversity Impact Assessment and Risk Management

It is not believed that there is any significant risk.

8 Financial and Procurement Implications

- 8.1 There are no direct financial implications arising from the report.
- 8.2 The removal of the Restriction would have financial implications for the operators and could reduce the operator licence income for the Council affecting the ability for the Council to maintain the service at its current level.
- 8.3 The cost to the Council in terms of officer time in the carrying out enforcement of the operator licensing regime will be covered by licensing fees.

9 Legal and Human Rights Implications

- 9.1 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

10.0 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

11.0 Consultees

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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Licensing Committee

Date: 14 March 2019

The Director of Law (Monitoring Officer) is consulted in respect of all reports.

12.0 Appendices

12.1 Appendix A – Email from Councillor James Robbins

From: Sent: 26 February 2019 21:38
To: Kathryn Ashton <KAshton@swindon.gov.uk>
Subject: Re: Taxi Licensing

Kathryn,

I would like to request that the Licensing committee review the current convention that private hire taxi drivers can only have a license with one company at a time. I have been approached by a number of taxi drivers following the press coverage following a discussion of the issue at a recent Scrutiny meeting.

The drivers are keen to be able to take bookings from multiple companies, especially those drivers who regularly take passengers on long-distance trips to airports and seaports. They find it frustrating that they only have a booking for one leg of the journey, and travel one way without a passenger, whilst seeing other Swindon taxi drivers at the destination who have a single passenger for the other leg. The drivers would rather take less journeys, but be paid for both legs as it is much more profitable, as well as reducing the overall car journeys from Swindon.

The argument that the drivers make is supported by their status as self-employed taxi drivers, but currently they are limited to working for just one company as they only have one copy of their license and it is lodged with a particular company. If the drivers were properly self-employed, they would be able to drive for which ever company they chose to.

The current system would require a private hire driver to give notice to the operator that they are driving for, collect their green form, physically take it to another company and start driving for them. This doesn't give drivers the flexibility they need to be able to drive for the company that may need them.

Can we review the Council policy of one license per driver to allow drivers to pay for multiple copies of their license, so that they can drive for more than one operator? Drivers have suggested that they would be happy to pay up to £10 for each duplicate license.

Let me know what changes you need to make it fit the required format...

Thanks,

Jim

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