

**LICENSING BOARD
24th September, 2018**

Present:- Councillor Ellis (in the Chair); Councillors Buckley, Beaumont, Clark, Elliot, Fenwick-Green, Jones, Marriott, McNeely, Napper, Reeder, Senior, Sheppard, Steele, Taylor and Vjestica.

Apologies for absence were received from Councillors Hague, Mallinder, Rushforth and Wyatt.

1. DECLARATIONS OF INTEREST

There were no Declarations of Interest made at this meeting.

2. MINUTES OF THE PREVIOUS MEETING HELD ON 23RD APRIL, 2018

Consideration was given to the minutes of the previous meeting of the Licensing Board held on 23rd April, 2018.

Members discussed the following matters arising from the minutes:-

(1) (Minute No. 11 – Taxi and Private Hire Licensing Performance and General Update Report) – it was noted that the forthcoming review of fees and charges for Licensing will include the possible introduction of a fee to be charged to insurance companies and third parties requesting data downloaded from the camera hard-drive installed within licensed hackney carriages and private hire vehicles.

(2) (Minute No. 12 - Rotherham MBC House To House Collections Policy) – this proposed Policy was to be considered by the Cabinet at its meeting to be held on Monday, 22nd October, 2018; the Licensing Board members suggested that this Policy ought to include a specified time/hour of the day after which House to House collections must not take place.

Resolved:- That the minutes of the previous meeting of the Licensing Board held on Monday, 23rd April, 2018, be approved as a correct record for signature by the Chairman, with the inclusion of a clerical correction by the deletion of the words “or exceed” from the final bullet point within Minute No. 12 (Rotherham MBC House To House Collections Policy).

3. ROTHERHAM MBC SEX ESTABLISHMENT POLICY

Consideration was given to a report, presented by the Licensing Manager, concerning:-

- the proposed adoption by the Council of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009); and

- the proposed Rotherham MBC Sex Establishment Licensing Policy.

Members noted that other relevant provisions of the of the Local Government (Miscellaneous Provisions) Act 1982 had previously been adopted by the Council (reference : Minute No.1236(2) of the meeting of the Policy and Resources Committee held on 20th October, 1982).

The report stated that Section 27 of the Policing and Crime Act 2009 had come into effect in April 2010 and had the effect of reclassifying lap dancing clubs and similar as 'sexual entertainment venues' and added these to the category of "sex establishment" within the 1982 Act (along with sex shops and sex cinemas). Members were informed that, currently, there was only one sex shop situated within the Rotherham Borough area and no sex cinemas. There was one club situated within the Rotherham town centre classified as a sexual entertainment venue.

A copy of the draft Sex Establishment Licensing Policy was appended to the submitted report.

In discussion of the submitted report and of the draft Sex Establishment Licensing Policy, Members of the Licensing Board referred to the following salient matters, which shall be considered further as part of the process of determining the final Policy:-

- Members debated the requirement for a full equality assessment of the Policy to be undertaken and decided, by a majority vote, that this assessment should be undertaken after the consultation period has ended and at the time when the final draft of the Policy is near to completion;
- the public consultation exercise is to be undertaken in respect of the Policy, involving (amongst others) the general public, statutory authorities, religious groups, community and voluntary groups, residents living near to premises, the employees within the industry and their representatives, as well as industry representatives;
- the arrangements for the regular and routine review of the Sex Establishment Licensing Policy, after implementation;
- concerns in respect of persons within the industry who have convictions for sex offences or offences involving indecency and who may be on the register of sex offenders;
- the defined area within which sex establishment venues shall be permitted to be situated shall be a defined area of the Rotherham town centre; a specific definition and map of this area shall be included within the Policy;

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- no other parts of the whole Rotherham Borough area shall be included within the defined area, thereby restricting the location of sex establishment venues only to the Rotherham town centre;
- a maximum number of two licensed sex establishment venues shall be permitted within the defined area at any time;
- ensuring that the contents of the proposed Policy accord with the Council's Development Plan and the Rotherham town centre masterplan in respect of the suitability of locations for premises/venues;
- multi-use premises and outdoor venues which may be used for various activities at different times and only on occasions as a sex establishment;
- the Policy must be kept up-to-date ensuring that it is compliant with relevant legislation and current guidance issued by Central Government;
- enforcement issues and the possibility of unregulated activities taking place at premises and venues which are unlicensed;
- the need for a rigorous examination of the persons who are responsible for licensed sex establishments, including a thorough assessment of their past conduct as holders of licences issued by local authorities and other appropriate statutory bodies;
- the industry practice of fining employees should be prohibited, both by a rigorous condition of a licence and by enforcement;
- the process conducted by the local authority in determining applications for licences for a sex establishment venue shall include notification of and consultation with residents living (including in residential homes) adjacent or near to the premises/venue which are the subject of the application;
- the need for careful control of the advertising of sex establishment venues, including the methods of distribution of advertising leaflets and the external appearance of premises/venues;
- applicants for licences must provide details in writing in respect of employee welfare policies, codes of conduct both for employees and for customers and also of pricing policies.

(1) Resolved:- (a) That the report and draft Policy be received and their contents noted.

(b) That the Licensing Board expresses the view that it is in favour of the Council implementing the proposed Rotherham MBC Sex Establishment Licensing Policy, as now submitted, provided that:-

(i) further consideration is given to the contents of the proposed Policy in the light of both comments now made by the Members of the Licensing Board and representations received by the Council during the forthcoming public consultation exercise;

(ii) the completion of a full equality assessment, the findings of which are to be included within the Policy eventually approved and implemented by the Council;

(iii) the Council shall make arrangements to undertake a review of the Sex Establishment Licensing Policy one year after its implementation and thereafter regular reviews at intervals of three years.

(2) Recommended:- That Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) be formally adopted by the Council.

4. TAXI AND PRIVATE HIRE LICENSING PERFORMANCE AND GENERAL UPDATE REPORT

Consideration was given to a report, presented by the Licensing Manager, providing an update in relation to the Licensing Service performance against the Taxi and Private Hire Licensing Performance Framework. In addition, the report contained information on the key activities and actions undertaken by the Licensing team during the first six months of 2018/19. Specific reference was made to:-

- Enforcement actions and other activity undertaken by the Licensing service;
- Licensing Enforcement work – options available to officers, including compliance advice, guidance and support.
- Corporate performance measures for the Licensing Service (second quarter update);
- Licensing performance framework (second quarter update);
- Current priority work – review of private hire operators and takeaways and late night restaurants;
- Licensing Service – review of structure and recruitment of staff;
- Statistics of decisions on Licensing matters made by the Sub-Committee of the Licensing Board (calendar year 2018 to date);
- Summary information about appeals made by individuals against the refusal or revocation of licences.

Members noted that the National Register of Revocations and Refusals (NR3) had become a live national database during August, 2018 and was being hosted by the National Anti-Fraud Network (NAFN). This facility enabled participating Licensing Authorities to undertake a check of the

database as part of the process of assessing an applicant's fitness to hold a Hackney Carriage/Private Hire Driver's licence. Officers from this Council had been involved in the establishment of the NR3 national database.

Discussion took place on the sharing of relevant information about Licensing matters with the Multi-Agency Safeguarding Hub (including the South Yorkshire Police). Members of the Licensing Board requested an assurance that appropriate information was being shared in a timely manner, enabling necessary investigation work to begin at the earliest opportunity.

Members of the Licensing Board were informed that persons in receipt of a Police Caution (usually issued within a Police station) would receive a printed document, from the Police, giving details of the nature of the Caution.

The submitted report also provided details of forthcoming issues affecting the Licensing Service:-

(i) The introduction of a window sticker to be displayed in licensed vehicles. The sticker will confirm that the vehicle is licensed by Rotherham MBC and provide details of the way in which passengers may obtain further information about the vehicle and raise a concern about or compliment the driver. It was anticipated that these stickers would be introduced in licensed vehicles during October or November 2018.

(ii) There will be a general review (beginning early in 2019) of the conditions that are attached to Hackney Carriage / Private Hire licences.

(iii) There will be a review of the way that camera systems used in licensed vehicles are procured and approved. This review may involve a tendering process and the identification of a single or several approved suppliers.

Resolved:- (1) That the report be received and its contents noted.

(2) That, with regard to Licensing enforcement work, the options available to officers, including compliance advice, guidance and support, as detailed in the report now submitted, be supported.

5. LICENSING ENFORCEMENT PENALTY POINTS SCHEME

Consideration was given to a report, presented by the Licensing Manager, concerning the proposed introduction of a Licensing Enforcement Penalty Points Scheme, a method by which licenced drivers, operators or owners can be issued with points against their Council (Hackney Carriage and/or Private Hire) Licence by authorised officers of the Council.

The report stated that points would be used for less serious breaches of licence condition or legislation. The issuing of points formalises the previous practice of issuing warnings. The aim is to encourage licence holders to comply with all legislation, licence conditions and behave in an acceptable manner at all times, thereby improving the professionalism and reputation of the licensed vehicle trade. The points system would operate in addition to all existing enforcement options and would have regard to the principles of the Council's 'General Enforcement Policy'.

The draft schedule of enforcement penalty points and list of offences was appended to the submitted report.

(1) Resolved:- That the report be received and its contents noted.

(2) Recommended:- (a) That a Licensing Enforcement Penalty Points Scheme be implemented by the Council in accordance with the details contained within the report now submitted and incorporating the items listed at (i) to (v) below, as now determined by the Licensing Board:-

(i) offences relating to the installation and use of taxi camera systems shall not be included in the Penalty Points Scheme and such matters shall be determined either by the Licensing Board, the Licensing Board Sub-Committee or the appropriate officer in accordance with the Council's scheme of delegation to officers on Licensing matters;

(ii) the various offences which are concerned with aspects of the attitude, behaviour and conduct of licence holders shall be consolidated into one offence;

(iii) appeals submitted to the Council against the imposition of penalty points shall be determined as follows:-

1 to 6 points – by the Assistant Director of Community Safety and Street Scene, or appointed representative;

7 to 12 points – by the Licensing Board or the Licensing Board Sub-Committee;

(iv) licence holders who accumulate a total 12 points shall be referred for a case hearing by the Licensing Board or the Licensing Board Sub-Committee.

(v) the Assistant Director of Community Safety and Street Scene and the Assistant Director of Legal Services shall, in consultation with the Chair and the Vice-Chair of the Licensing Board, determine the following matters:-

(A) the guidance to be used by Licensing staff when considering the imposition of penalty points upon a licence holder;

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(B) the period (ie: the maximum number of days) within which a licence holder who wishes to appeal against the imposition of penalty points must submit the appeal to the Council;

(C) the date of implementation of the Licensing Enforcement Penalty Points Scheme.

(b) That the Licensing Manager submit a progress report about the use of the Licensing Enforcement Penalty Points Scheme to the first meeting of the Licensing Board which takes place after the implementation of the Scheme and thereafter information about the use of the Scheme shall be included within the Taxi and Private Hire Licensing Performance and General Update reports.