

LICENSING BOARD
Monday, 15th September, 2014

Present:- Councillor Dalton (in the Chair); The Mayor (Councillor Foden); Councillors Buckley, Cutts, Ellis, J. Hamilton, N. Hamilton, McNeely, Parker, Roddison and Sims.

Apologies for absence were received from Councillors Beck, Doyle, Havenhand and Reeder.

P7. DECLARATIONS OF INTEREST

There were no Declarations of Interest made at this meeting.

P8. MINUTES OF THE PREVIOUS MEETING OF THE BOARD HELD ON 11TH JUNE, 2014

The minutes of the previous meeting of the Licensing Board held on 11th June, 2014, were considered.

Resolved:- That the minutes of the previous meeting be approved as a correct record for signature by the Chairman.

P9. MINUTES OF THE MEETINGS OF THE SUB-COMMITTEE OF THE LICENSING BOARD

Resolved:- That the contents of the minutes of the meetings of the Sub-Committee of the Licensing Board held on (a) 9th July, 2014 and (b) 13th August, 2014, as now submitted, be noted.

P10. BOROUGH-WIDE DESIGNATED PUBLIC PLACE ORDER - UPDATE

The Crime and Anti-Social Behaviour Manager presented an update on the current position and use of the Borough-wide Designated Public Place Order (DPPO) which had been approved by the Licensing Board on 21st March, 2012 (Minute No. 51 refers).

In Rotherham the DPPO was enforced by Police Officers, Police Community Support Officers and, under new shared/accreditation powers, RMBC Wardens although they could not issue a Penalty Notice for Disorder. South Yorkshire Police worked with voluntary, statutory and business partners to deliver an integrated approach to reducing violent crime in the Borough. A partnership delivery plan was in place which focussed on maximum visibility, effective use of legislation and joint partnership working. To complement the work on reducing alcohol-related violence, the principals of the Community Alcohol Partnerships had been rolled out across all Wards to reduce alcohol-related anti-social behaviour.

Although the Police did not record the number of times the powers of the DPPO had been used, the partnership work was reliant upon DPPO's to assist officers to prevent drinking in streets/public places which was likely to cause violence or anti-social behaviour and the designated DPPO signs acted as a visible reminder to potential offenders.

Over the past 6 months the DPPO had been used to complement Dispersal Legislation with 122 individuals having been issued a Dispersal Notice. Dispersal Notices were then followed by a letter of advice stating that should they be involved in further alcohol-related anti-social behaviour, a breach of DPPO or disorderly behaviour over the next 2 months then they would be placed on an Acceptable Behaviour Contract (ABC). To date, 104 had been issued to offenders from the night time economy (1 had gone on to reoffend and had been placed under an ABC) and 18 to day time drinkers (2 had reoffended and been made the subject to Anti-Social Behaviour Orders). Those that breached a DPPO or were issued a Dispersal Notice were also provided information on alcohol units and the Milton House Project.

DPPOs would be replaced by Community Protection Orders (Public Spaces) on 20th October, 2014, under the new Anti-Social Behaviour, Crime and Policing Act 2014. The new Legislation recognised that many authorities would already have signage in place for the existing DPPO and the Home Office had stated that it could be retained for a maximum period of 3 years from the 20th October.

The main purpose of the new Public Spaces Protection Orders was to deal with a particular nuisance or problem in a particular area that was detrimental to the local community's quality of life by imposing conditions on the use of that area. Examples of potential use was dog control, alleygating and stopping certain individuals going to a particular place.

The Council would issue them, following consultation with the Police, the Police and Crime Commissioner and other relevant bodies, if it was satisfied on reasonable grounds that 2 conditions were met; firstly that the activities carried on in a public place within the Authority's area had had a detrimental effect on the quality of life of those in the locality and secondly that it was likely that the activities would be carried on in a public place within that area and that they would have such an effect. The Order was valid for 3 years.

The restrictions could be set by the Council i.e. it could be a blanket requirement or targeted against certain behaviours by certain groups at certain times. It could be enforced by a Police Officer, Police Community Support Officer or a Council Officer. Breach of the Order was a criminal offence with a Fixed Penalty Notice of up to £100 or prosecution up to level 3.

Anyone who lived in an area, regularly worked in the area, visited the area could appeal against a Public Space Protection Order in a High Court

within 6 weeks of issue or variation of the Order being applied for.

More than 1 restriction could be added to the same area i.e. a single Order could deal with a wide range of issues such anti-social behaviour, drinking of alcohol, dog control. There was also no reason why a Public Spaces Protection Order could not run alongside a DPPO.

Discussion ensued with the following points raised/clarified:-

- Concern that the Police did not record how many times they had used the DPPO powers – if the power was exercised by the Council's Wardens it was recorded and passed onto the Police
- The system operated by EDS was still in use whereby businesses could ring to alert others of potential anti-social behaviour
- In theory if a tenant was found to be in breach of a Public Spaces Protection Order it could be used as a means of terminating their tenancy if the definition of "locality" was satisfied. The definition of "locality" would refer to housing tenancy management
- The new Legislation was intended to complement existing work such as Community Alcohol Partnerships

Resolved:- (1) That the current position on the use and effectiveness of the Designated Public Place Order be noted.

(2) That the continued use the Designed Public Place Order in the Borough as an effective tool to tackle alcohol related anti-social behaviour be supported.

(3) That a further update be submitted in 6 months.

(4) That a letter be sent to the District Commander requesting the collection of data by the Police on the use of Designated Public Place Orders in Rotherham.

(5) That consideration be given to the most suitable means of informing Members and officers of the new Community Protection Orders (Public Space).

P11. HOUSE TO HOUSE COLLECTIONS

The Licensing Manager presented an update on the current guidance issued by NALEO (National Association of Licensing and Enforcement Officers), Institute of Fundraising and Cabinet Office (Office for Civil Society) in relation to the determination of applications for House to House Collections.

The licensing of charitable door to door collections was principally governed by the House to House Collections Act 1939 together with the House to House Collections Regulations 1947. With the exception of a limited number of major national charities which held national exemptions

issued by the Cabinet Office, the majority of charitable door to door collectors must obtain a licence from the relevant licensing authority.

The report set out in detail:-

- Instances where an authority may refuse to grant a licence or revoke a licence as well as the obligations on Charities with regards to charitable collections
- What constituted as Charitable Purpose
- What was not a Charitable Purpose
- Relevance of Percentages when considering applications
- How an Authority could be sure that the amount of proceeds going for Charitable Purposes was adequate
- A summary of important issues for consideration when determining applications

A model application form had been devised that was recommended for use by Licensing Authorities. If approved, the form would be adapted for use for applicants wishing to apply in Rotherham.

The Cabinet Office was currently dealing with 2 appeals against the Council to refuse licences.

Discussion ensued on the report with the following issues raised/clarified:-

- The recycling of old clothing, bric a brac etc. had created an industry. Private companies saw it as an opportunity for increased recycling with charities quite happy to be given a token payment instead of having to organise collection. The number of applications had increased in recent years
- There had been some successful prosecutions in Rotherham around unlicensed collections; recycling could cause confrontation on the streets from some companies
- There was a suggestion that there was a problem in Rotherham with some charities using contractors as volunteers as they had allegedly experienced intimidation from private collectors
- Acknowledgement that the Legislation in force dated back to 1939 and was out of date but, provided that there was a contract between the fund raisers and the Charity, it met the terms of the Legislation

Resolved:- (1) That the model application form, to be adapted for Rotherham, and guidance attached to the report submitted be noted.

(2) That a letter be sent to the Cabinet Office expressing the need to bring the Legislation in line with present day circumstances.

P12. HACKNEY CARRIAGE/PRIVATE HIRE LICENCES - POINTS BASED ENFORCEMENT SCHEME

The Community Protection Manager presented a report on the proposed introduction of a points based enforcement scheme for vehicles, drivers and operators licensed by the Licensing Authority.

The Council, as Licensing Authority, had a duty to regulate certain types of passenger carrying vehicles with the main objective of protecting the travelling public and maintaining the quality and safety of the licensed trade. Serious breaches of legislation or licence conditions were presented to the Magistrates Court or to the Licensing Board Sub-Committee where suspension or revocation was considered. However, the position was limited with regard to minor breaches.

The proposed introduction of a points based approach would allow the minor breaches to be formally recognised and drivers/operators/owners issued with points by Council Officers. It would provide a fast and efficient way of dealing with the minor breaches of the licence regime and reflect their compliance record. It would be additional to all existing enforcement options available to the Council and would help provide an open and transparent method of how a licence holder would be assessed in terms of the 'fit and proper person' test contained within the law.

Full details of the proposed scheme were set out in the report.

Discussion ensued on the proposal with the following issues raised/clarified:-

- 3 Points issued per incident and accrued up to the "trigger level" of 12 at which point the licence holder would be referred to the Licensing Board Sub-Committee
 - The list of minor breaches was open ended due to the large number of potential offences under different legislation/policies
 - The points would be recorded on the license holder's personal record held on the Council's specialist licensing database
 - Points would remain on a licence for 2 years from the date of issue unless they were considered during that period by the Licensing Board Sub-Committee who may replace them for a formal sanction or extend the period
- Where a licence holder accumulates the "trigger level" more than once in any three years' period, the Licensing Board Sub Committee will consider whether they believe the repeated accumulation of points indicates that the driver is not a 'fit and proper person'; each case will be considered on its own merits;
- An appeal would be heard by the Licensing Board Sub-Committee
 - All licensed individuals would be sent a letter with details of the proposed scheme
 - The scheme would not circumvent any circumstances where a serious incident occurred and would be put before the Sub-Committee for consideration
 - A number of local authorities nationally had opted for such a scheme
 - The accumulation of points had no sanction other than appearing

before the Sub-Committee, therefore, the drivers would be allowed to continue driving

Resolved:- (1) That consultation on the possible introduction of a points based enforcement scheme for the Hackney Carriage/Private Hire Trade commence.

(2) That a further report on the outcome of the consultation be submitted to the next Board meeting together with the complete Policy for ratification.

P13. REVIEW OF THE COUNCIL'S LICENSING PROCESSES IN RELATION TO TAXIS AND HACKNEY CARRIAGES

The Director of Housing and Neighbourhoods submitted a report outlining the current processes that were followed with regard to the issuing of licences to drivers, vehicles and private hire operators. It also set out proposals to improve driver and vehicle standards, strengthen existing policy and processes and provided an overview of the actions that the Licensing Team would be taking in light of the findings of the Independent Inquiry into Child Sexual Exploitation in Rotherham 1997-2013 (Professor Alexis Jay OBE).

The report set out in detail:-

- Overview of the licensing of hackney carriages, private hire vehicles, private hire operators and drivers
- Police notifications
- Responsible Authorities meeting
- Actions to be taken by Licensing following publication of the Alex Jay report
- Clarification of the current scheme of delegation/proposal for revised delegation in relation to hackney carriage and private hire licensing
- Proposals to strengthen the existing application process
- Mandatory child safeguarding and other training
- Vehicle standards
- Knowledge test

Discussion ensued with the following issues raised/clarified:-

- There was new Legislation working its way through Parliament with regard to someone other than the licensed driver driving the vehicle
- A vehicle owner's character could not be taken into account when considering whether to licence the vehicle according to Legislation
- In many cases the licensed operator did not actually drive the vehicle(s). There was no clear legal definition of what constituted a Fit and Proper Person and this was open to a degree of local interpretation. Drivers/potential drivers who came before the Board were dealt with on the information before them and the Board decided

- as to whether the person was fit and proper
- Included in the review was the appropriateness/availability of Enforcement Officers
 - There was a condition attached to the licence requiring companies to keep records of where their taxis were at all times
 - A limousine company that provided alcohol had to be dual licensed
 - Operators that had large vehicles were licenced through VOSA (Vehicle and Operator Services Agency) but could use a smaller vehicle and be exempt from being licensed by the local authority. VOSA did not carry out individual driver checks. VOSA was being challenged on this issue
 - The Police would not automatically be notified if a licensed driver's licence was revoked but there was an internal escalation policy which clearly set out which agencies should be notified. If there were concerns relating to the welfare of children or vulnerable adults, this would be referred to the appropriate agency such as Children's Services, Adult Safeguarding and the Police
 - A number of local authorities had a policy whereby a vehicle could be no more than 5 years old. Rotherham did not have such a policy but a check was made on a vehicle when an application was made. The new Policy would accord with national standards
 - The Authority had actively encouraged taxi drivers to install CCTV cameras in their vehicles for some time and could be included as part of the consultation
 - The review was welcomed to bring the Authority in line with others

Resolved:- (1) That the current processes in relation to driver licence applications, suspensions and revocations be noted and it is confirmed that the Licensing Board was satisfied that the current arrangements met the Council's obligations in relation to taxi/private hire licensing.

(2) That the actions proposed by the Licensing Team in light of the findings of the Independent Inquiry into Child Sexual Exploitation in Rotherham be approved and supported.

(3) That the clarification of the delegation to officers by the Licensing Board, as detailed in Appendix 2, be approved.

(4) That the development of proposals to strengthen the application process (in consultation with the taxi/private hire trade and other relevant stakeholders) with a view to submitting a report to the December meeting of the Licensing Board, or sooner, seeking the introduction of the reviewed application process.

(5) That the development of revised/consolidated vehicle standards (in consultation with the taxi/private hire trade and other relevant stakeholders) be approved with a report being submitted to the December meeting of the Licensing Board, or sooner, seeking the introduction of the revised vehicle standards.

(6) That a consolidated and comprehensive Taxi and Hackney Carriage Licensing Policy be submitted to the December meeting of the Licensing Board, or sooner, suitable for public consultation.

(7) That an update be submitted to the December Board meeting on discussions with VOSA with regard to the licensing of limousines.