

**MINUTES OF A MEETING OF THE LICENSING AND REGULATORY COMMITTEE HELD AT
THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 14 JANUARY 2016
COMMENCING AT 7.00 PM**

<u>IN ATTENDANCE:</u>		
Chair - Councillor Mrs H E Loydall		
Vice-Chair - Councillor Miss M V Chamberlain		
<u>COUNCILLORS (10):</u>		
G S Atwal	M H Charlesworth	
G A Boulter	R F Eaton	K J Loydall
F S Broadley	B Fahey	R H Thakor
Ms K Chalk	J Kaufman	
<u>OFFICERS IN ATTENDANCE (3):</u>		
S J Ball	S Eyre	J Mortell

Min Ref.	Narrative	Officer Resp.
18.	<u>APOLOGIES FOR ABSENCE</u> An apology for absence was received from Councillors Mrs L M Broadley and Ms A R Bond.	
19.	<u>APPOINTMENT OF SUBSTITUTES</u> None.	
20.	<u>DECLARATIONS OF INTEREST</u> Councillor G S Atwal declared that he was a private hire vehicle (taxi) driver by profession licensed by Leicester City Council.	
21.	<u>MINUTES OF THE PREVIOUS MEETING HELD ON 01 OCTOBER 2015</u> RESOLVED THAT: The minutes of the previous meeting of the Committee held on 01 October 2015 be taken as read, confirmed and signed.	
22.	<u>PETITIONS AND DEPUTATIONS</u> None.	
23.	<u>12-MONTH MOTOR INSURANCE CERTIFICATES CONSULTATION</u> The Committee gave consideration to the report and appendices (at pages 6 - 9) as delivered by the Interim Licensing Team Leader which should be read together with these minutes as a composite document. The Interim Licensing Team Leader stated that at a meeting of this Committee on 22 July 2015, it was resolved by Members, in accordance	

	<p>with Section 12 of the Taxi Licensing Policy (as adopted), that only 12-month motor insurance certificates ("certificates") were to be accepted henceforth. It was reported that in response, it was the insurance companies' intention to instigate judicial review proceedings challenging the resolution on the grounds that, amongst other things, the Council did not consult upon the same. Members were advised that it was this Council's formal counter-response to therefore undertake a full consultation upon the subject-matter for a six-week period (as recommended at 2 at page 6). With reference to the draft consultation document at appendix 1 (at pages 8 - 9), it was stated that the document sought to invite comments from primarily three consultee-groups (viz. current hackney carriage/private hire vehicle licence holders, the police and insurance companies/brokers), the results of which would be brought back to the next meeting of this Committee on 07 April 2016. It was reiterated that it remained the position of the Council to seek to end operating a 7-day certificate arrangement for the reasons outlined in the draft consultation document at (a)-(c) (at page 8).</p> <p>With reference to the draft consultation document at (a) and the heading marked 'The Trade; respectively, the Chair proposed two amendments, namely that: (i) the added cost implication of the "administrative work" be itemised; and (ii) the practice of accepting 7-day certificates be so-described as creating an "extra administrative workload" due to the additional provision of time and personnel. The Chair further raised a concern regarding, and enquired as to, whether this Council, its licence holders and, or, Private Hire Operators (PHO) would be jointly-responsible in ensuring licensed vehicles are fully-compliant in respect to insurance.</p> <p>The Interim Licensing Team Leader stated that the added cost implication would ultimately, and necessarily, have to be subsidised by the licence holder and that licence holders ought to be made aware of the same. He advised that although there was a duty incumbent upon this Council, as the Licensing Authority, to ensure its licensed vehicles are appropriately-insured, that responsibly is equally borne primarily by individual licence holders (as policyholders) and secondarily by PHO's.</p> <p>Councillor J Kaufman enquired as to what the adopted practice was by other local Licensing Authorities in Leicester/shire and, as such, whether a six-month motor insurance certificate option could be offered by way of compromise.</p> <p>The Interim Licensing Team Leader advised that, as far to his knowledge, the majority of other local Licensing Authorities in Leicester/shire (including North West Leicester District Council) do accept a temporary cover note upon the understanding that a 12-month motor insurance certifies shall be provided. It was, however, reported that a small number of Licensing Authorities in Leicester/shire did accept 7-day certificates.</p> <p>The Member stated that he was in favour of ceasing the practice of accepting 7-day certificates for the reasons outlined. He further enquired as to whether the insurance companies' intention to instigate judicial review proceedings had hitherto incurred any cost to this Council in responding to the same.</p> <p>The Interim Licensing Team Leader advised that a cost had been incurred.</p>	
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	<p>Councillor G A Boulter proposed that those licence holders who were minded to opt for 7-day certificate ought to be charged a commensurately-higher rate inasmuch to reflect the extra administrative workload and added cost implication thereof. He emphasised that this additional financial burden should not fall on the taxpayers of this Borough for the effective purpose of subsidising the voluntary business activities of other individuals.</p> <p>The Chair stated that approximately 10% of all current licence holders licensed by this Council were affected by the subject-matter in question and that, although the Member's aforementioned proposal could only be considered once the consultation had concluded, an itemised reference to the added cost implication would be nevertheless be explicitly made in the consultation document.</p> <p>Councillor B Fahey enquired as to how long 7-day certificates have hitherto been accepted by this Council.</p> <p>The Chair advised that the subject-matter in question came to her attention approximately 18-24 months ago to whom she had raised concerns (as similarly outlined in the draft consultation document at (a)-(c)) to the Licensing Officer in-post at that time. It was said that she had been assured by the then Officer that an approximate one or two licensed vehicles were affected and that an informal working-arrangement existed in respect of the licence holders. The Chair stated that the subject-matter again materialised upon that Officer's departure from this Council and that item was now before Members of this Committee for resolution.</p> <p>The Licensing Officer sought to clarify that a vehicle licence is strictly issued upon the presentation to the Licensing Authority of a valid certificate of motor insurance (or temporary cover note) by the licence holder and, or, his chosen insurance provider.</p> <p>Councillor B Fahey disagreed with the 7-day insurance operating practice of licence holders insofar as it is not an accepted practice afforded to ordinary policyholders.</p> <p>Councillor M H Charlesworth reiterated that any licensing-regime should operate on a cost-recovery vis-a-vis a punitive basis. He further questioned the motives upon which insurance companies' intention to instigate judicial review proceedings was founded, suggesting that insurance brokers had a possible long-term financial interest in continuing to renew motor insurance certificates every seven days. If such was the case, the Member disapproved of motives and industry practices in terms of the unnecessary financial burden being placed on this Council to respond.</p> <p>The Interim Licensing Team Leader advised that the insurance companies' intention to instigate judicial review proceedings was taken on its face value.</p> <p>The Member enquired as to whether the consultation exercise would serve to mitigate against the prospect of judicial review proceedings being instigated.</p> <p>The Interim Licensing Team Leader advised that such would be the anticipated outcome. He further reported that if all 153 current licence holders opted for a 7-day certificate, an approximate five minute data-entry</p>	
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	<p>exercise per licensed vehicle would amount to an additional administrative burden of approximately 13 hours per week.</p> <p>Councillor K J Loydall expressed his discontent insofar the ongoing operational impact this subject-matter was having upon this Licensing Authority despite this Council's full compliance with the regulatory governance aspect(s) of the same most notable in respect of the scale of fees and charges. With reference to the draft consultation document, the Member sought to substitute the word 'accepts' with 'operates' so to more accurately denote the Licensing Authority's current practice.</p> <p>The Interim Licensing Team Leader advised Members that although the scale of fees and charges pursuant to inter alia the Licensing Act 2003 is prescribed, the scale of fees and charges in respect of the hackney carriage/private hire vehicle regime are variable.</p> <p>The Chair sought to clarify that the antecedents obtaining to the subject-matter in question did not involve or otherwise implicate any Officer in-post at neither the current time nor any Officer in attendance at this meeting of this Committee.</p> <p>The Interim Licensing Team Leader advised that if Members were minded to approve the six-week consultation exercise, that the draft consultation document would in addition be considered by the Council's department ahead of its circulation.</p> <p>The Chair stated that the consultation period would be held within the six-weeks between the time elapsing between this meeting and the next meeting of this Committee on 07 April 2016.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <ul style="list-style-type: none"> (i) A six-week consultation period take place; and (ii) The Committee support the consultation. 	
24.	<p><u>PRIVATE HIRE OPERATORS' LICENCE FEES UPDATE</u></p> <p>The Committee gave consideration to the report (at pages 10 - 11) as delivered by the Interim Licensing Team Leader which provided an update to the report as resolved by Members at the previous meeting of this Committee held on 01 October 2015. This should be read together with these minutes as a composite document.</p> <p>The Interim Licensing Team Leader reported that pursuant to the changes in legislation on 01 October 2015, a default obligation was incumbent upon this Council to now issue Private Hire Operator (PHO) and Combined Hackney Carriage/Private Hire (CHC/PH) driver licences for a valid licence period of five and three years, respectively, and that the effects of Deregulation Act 2015 ("the Act"), Section 10 afforded the discretionary option to Licensing Authorities to issue licences for a shorter licence period. It was reiterated that although no changes were proposed in respect of any existing fees for the default licence periods, a new and approved PHO fee structure was required in order to account for the shorter PHO license periods on a pro-rata basis as outlined in the report at 3 (at page 10).</p>	

As such, the Interim Licensing Team Leader reminded Members that the change in licence fees for a PHO licence was to be advertised in a local newspaper by way of Public Notice circulating in the area, and 28 days allowed from the date of the Notice for any objections to be received to the proposed fee ("the objection notice period"). The Public notice, dated 02 October 2015, was said to have been placed in the 08 October's edition of the Leicester Mercury. The objection notice period was therefore said to have commenced on 02 October and ended on the 06 November 2015. As previously resolved at (4) (Minute Reference 16 at page 4), the Interim Licensing Team Leader stated that if any objections were received, that the Chair, Vice-Chair and a third Member under delegated authority were to consider the same and decide upon whether to implement the original proposed fee, or implement a revised fee, within two months of the end of the objection period (i.e. by the 05 January 2015).

The Interim Licensing Team Leader further reported that a complaint had initially been received on 28 September 2015 (together with several similar e-mails thereafter) which formed the latter part of the report presently before Members. He advised that the complaint was currently being investigated by the Chief Executive, in conjunction with the Director of Services, as an escalation from a Level One to a Level Two Complaint in accordance with the Council's Compliments, Comments and Complaints Policy and Procedure ("the Complaints Policy") and that the complainant had been advised of the same. It was stated that despite numerous attempts inviting the complainant to speak to Officers in person and, or, to attend the Council Offices to discuss the concerns raised in his complaint, the complainant was neither forthcoming with any contact telephone details, nor has agreed to an appointment on terms acceptable to this Council and that no reply been received to an e-mail sent to the complainant by the Interim Licensing Team Leader on the 17 December 2015.

The Interim Licensing Team Leader recommended as at 2b of the report (at page 10) that the approved PHO licence fee structure ought to be introduced as proposed and previously resolved at (1) (Minute Reference 16 at page 4) unless the Members of this Committee were minded to consider such a decision to be unsafe.

The Chair enquired as to however many PHO's were licensed in the Borough and, of those PHO's, if any objections were received by the same within the objection notice period.

The Interim Licensing Team Leader advised that there were approximately ten PHO's licensed in the Borough and that, of those licensed PHO's, no objections were received. He reiterated that only the one aforementioned complaint had initially been received on 28 September 2015 and, as such, was currently being dealt with as a Level Two Complaint in accordance with the Council's Complaints Policy.

The Chair stated that having not received any objections from the PHO's licensed in the Borough, and given the aforesaid complainant's reluctance to engage with Officers in a constructive dialogue, she moved the recommendation at 2b of the report for the approved PHO licence fee structure to be introduced as proposed.

Councillor M H Charlesworth opined that he considered there to be no

	<p>impropriety committed on the part of the aforesaid complainant insofar as expressing an opinion has formed part of a complaint that is currently being duly investigated. He stated that he agreed with the Chair's motion and that the item of business before this Committee was now one that ought to be dealt with expediently as was previously resolved by Members. The Member further sought clarification as to the grantable licence periods for PHO and CHC/RH driver licences.</p> <p>The Interim Licensing Team Leader reiterated that the default licence periods for PHO and CHC/PH driver licences were five and three years, respectively, and that the Act afforded the discretionary option to Licensing Authorities to issue licences for a shorter licence period upon the presentation of a reasonable business-case.</p> <p>Councillor K J Loydall seconded the recommendation at 2b of the report.</p> <p>Councillor G A Boulter enquired as to whether the regulatory governance aspect of the decision to introduce the approved PHO licence fee structure was satisfied.</p> <p>The Chair reiterated that the necessary regulatory governance requirement of the decision to introduce the approved PHO licence fee structure was already satisfied by virtue of Members' earlier resolution at (1) at the previous meeting of this Committee held on 01 October 2015 (Minute Reference 16 at page 4) and to which the Chief Executive and Director of Services were said to have given their support.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <p>The approved Private Hire Operator licence fee structure be introduced as proposed.</p>	
25.	<p><u>CHILD SEXUAL EXPLOITATION (VERBAL UPDATE)</u></p> <p>The Committee gave consideration to the verbal update as delivered by the Interim Licensing Team Leader.</p> <p>The Interim Licensing Team Leader reported that since the previous meeting of this Committee on 01 October 2015, there had been considerable movement on Child Sexual Exploitation (CSE) assessment briefings for hackney carriage and private hire vehicle drivers in Leicester/shire. It was said that the content of the proposed training and assessment package, as led by Leicester City Council, had been adopted by the majority of the other District and Borough Councils across the County. He advised that a matter for decision by this Council was whether the costs associated in delivering CSE assessment briefings was to be borne by the Council itself or by its licence holders: if the latter, it was advised that any changes to the Taxi Licensing Policy and Scale of Fees and Chagres would need to be resolved by Members, accordingly. He stated that he was at the present time unaware of the associated-costs of delivering the CSE assessment briefings in this Borough.</p> <p>The Chair requested that a report outlining the same be put before the next meeting of this Committee on 07 April 2016 for Members' consideration and resolution.</p>	

	<p>Councillor G A Boulter stated that provision within the Committee budget would need to be made as soon as possible, ahead of the imminent finalisation of the Council's Overall Draft Budget for 2016/17 due before a meeting of the Policy, Finance and Development Committee on 02 February 2016, in order for the scheme to be realised in the new municipal year.</p> <p>Councillor K J Loydall advised the Interim Licensing Team Leader to liaise with this Council's Community Safety and Tenancy Manager and, or, Licensing Officers at Leicester City Council in order to ascertain the associated-costs.</p> <p>The Chair stated that the other District and Borough Councils across the Country would be in similar budgetary-positions and working within the same timeframes.</p> <p>RESOLVED THAT:</p> <p>The verbal update be noted by Members.</p>	
26.	<p><u>MISCELLANEOUS LICENSING MATTERS (VERBAL UPDATE)</u></p> <p>The Committee gave consideration to the verbal update as delivered by the Interim Licensing Team Leader.</p> <p>The Interim Licensing Team Leader reported that the former Legal and Licensing Assistant had resigned her post as of the 01 December 2015 and that temporary cover was presently being provided by existing personnel from within the Council. It was said that a post for a Licensing Enforcement Officer was currently being advertised (the closing date for applications being 24 January) and that the permanent position of Licensing Team Leader was set to be advertised from week-commencing 18 January with a provisional start-date in April 2016.</p> <p>The Interim Licensing Team Leader reported that the Office for Low Emission Vehicles had extended the deadline for bids under the Ultra-Low Emission Vehicle Taxi Scheme to mid-February 2016 thus affording the appointed consultant more time to undertake more work in respect of the joint-bid (as resolved at a previous meeting of this Committee held on 01 October 2015). It was said that the consultant was confident in being able to delivery under the partnership bid.</p> <p>The Interim Licensing Team Leader reported that the reviewed Gambling Statement of Licensing Policy had been adopted at the meeting of the Council held on 08 December 2015 and subsequently published in the local newspaper and on the Council's website ahead of its enforcement commencing on 31 January 2016.</p> <p>The Interim Licensing Team Leader reported that recent changes in regulations effective as of 01 January 2016 have increased the limit of Temporary Event Notices (TEN's) a single premises is permitted to apply for from 12 to 15 occasions in a single calendar year.</p> <p>The Chair expressed her gratitude to the Interim Licensing Team Leader for the interim-cover provided to this Licensing Authority, alongside the</p>	

	Licensing Officer, and further commended the work of the former Legal and Licensing Assistant.	
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THE MEETING CLOSED AT 7.55 PM



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CHAIR
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THURSDAY, 14 APRIL 2016
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