

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **REGULATION COMMITTEE** held in Council Chamber, Priory House, Monks Walk, Shefford on Wednesday, 17 November 2010

PRESENT

Cllr L Birt (Chairman)
Cllr T Green (Vice-Chairman)

Cllrs D Bowater
I Dalgarno
A Fahn
M Gibson

Cllrs K Janes
H J Lockey
Ms J Nunn
A A J Rogers

Apologies for Absence: Cllrs G Summerfield
P F Vickers

Substitutes: Cllrs B J Spurr (In place of Cllr P F Vickers)

Officers in Attendance: Mrs C Bell Team Leader Public Protection
Mrs J Borthwick Service Manager, Public Manager
Mrs M Clampitt Committee Services Officer
Mrs P Davies Licensing & Policy Officer
Mrs M James Licensing and Enforcement Officer
Mr D McBain Licensing Enforcement Officer
Mr M Woolsey Acting Managing Solicitor

REG/09/27 **Chairman's Announcements and Communications**

At the conclusion of the meeting the Chairman asked Claire Bell, Team Leader Public Protection to provide the Committee with an update on the recent changes to the Licensing Team. The Team Leader Public Protection informed the Committee that the Licensing Team had been reduced to five members of staff. In addition, she informed the Committee that she would be leaving the council at the end of November.

The Committee thanked her for all of her support and hard work.

REG/09/28 **Minutes**

RESOLVED

that the minutes of the meeting of the Regulation Committee held on 25 August 2010 be confirmed as a correct record and signed by the Chairman.

REG/09/29 **Members' Interests**

(a) **Personal Interests:-**

None.

(b) **Personal and Prejudicial Interests:-**

None.

REG/09/30 **Petitions**

The Chairman announced that no petitions had been referred to this meeting.

REG/09/31 **Public Participation**

No applications had been received in accordance with the Scheme of Public Participation set out in Paragraph 1 of the Scheme of Public Participation set out in Annex 1 to Part A4 of the Constitution.

REG/09/32 **Exclusion of the Press and Public**

The Committee resolved to exclude the press and public from the remainder of the meeting under Section 100A of the Local Government Act 1972 on the grounds that the consideration of the items of business would involve the disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 12A of the Act.

REG/09/33 **Application for a Private Hire Vehicle License**

The Committee received and considered the report of the Licensing and Enforcement Officer concerning an application for a private hire vehicle licence in respect Taylor's Transport in view of the age of the vehicle.

A copy of the application form and supporting documents were attached as an appendix for Members' information.

The applicant attended the meeting and made representations in support of the application. The Committee were invited to view the vehicle, which was in the car park.

In accordance with the procedures for hearings held in private, the applicant, Team Leader Public Protection and Licensing Officers were asked to withdraw whilst the Committee made their decision. The Committee's deliberation and visual inspection of the vehicle along with the service history and its appearance aided the decision process. Following which all who had withdrawn were recalled to hear the decision.

RESOLVED

that the application for a Private Hire Vehicle Licence for Taylor's Transport be granted in this case, subject to the applicant being reminded of his responsibilities to comply with the conditions of the Licence and that the Council has powers under the Local Government (Miscellaneous Provisions) Act 1976 to revoke the licence at any time.

The applicant was also reminded that the licence was subject to the vehicle passing all required mechanical tests.

REG/09/34 **Application for a Private Hire Vehicle License**

The Committee received and considered the report of the Licensing and Enforcement Officer concerning an application for a private hire vehicle licence in respect D and R Taxis in view of the age of the vehicle.

A copy of the application form and supporting documents were attached as an appendix for Members' information.

The applicant attended the meeting and made representations in support of the application. The Committee were invited to view the vehicle, which was in the car park.

In accordance with the procedures for hearings held in private, the applicant, Team Leader Public Protection and Licensing Officers were asked to withdraw whilst the Committee made their decision. The Committee's deliberation and visual inspection of the vehicle along with the service history and its appearance aided the decision process. Following which all who had withdrawn were recalled to hear the decision.

RESOLVED

that the application for a Private Hire Vehicle Licence for D & R Taxis be refused in this case under Paragraph 59 of the Local Government (Miscellaneous Provisions) Act 1976, as the Committee does not consider the vehicle to be of exceptional condition.

The Applicant would be informed in writing of his right to appeal against the decision to the Magistrates' Court and that the appeal must be made in 21 days of written notification of this decision.

REG/09/35 **Re-Admittance of the Press and Public**

RESOLVED

that the Press and Public be re-admitted to the remainder of the meeting.

REG/09/36 **Equalities Act 2010**

The Committee received and considered the report which sought a decision on the carrying out of a consultation in order to ascertain how the authority could meet the needs of a broad range of disabled people using hackney carriages, not just wheelchair users.

Central Bedfordshire adopted the wheelchair policy in January 2010, at the time it was noted that many of the trade were unhappy that all hackney carriages had to be wheelchair accessible. Any changes could only be made once a full consultation had been carried out. In addition Members were advised that the Department of Transport were themselves carrying out a consultation on how best to meet the needs of a broad range of disabled people, not just wheelchair users. Whilst the Government has made new regulations for taxis and private hire vehicles, the Equalities Act 2010 appears to have superseded the government consultation.

Central Bedfordshire conditions required all drivers of wheelchair accessible vehicles to assist in the loading and unloading of wheelchairs and their passengers and also in relation to their wheelchair use. However there is no provision that allows a driver who themselves suffered from a condition which makes it difficult to provide assistance, claim exemption from this obligation. In addition, the Equality Act 2010 and the Disability Discrimination Act 1995 obligated the drivers to carry guide dogs. Drivers could be exempted on medical grounds.

Officers recommended a 12 week consultation be carried out the results of which would be brought to a future meeting of the Regulation Committee.

RESOLVED

that a 12 week consultation be carried out to seek views on how to meet the needs of a broad range of disabled people using hackney carriages, not just wheelchair users.

that the following groups be consulted:-

- (a) Members of the Hackney Carriage and Private Hire trade;**
- (b) Groups serving the disabled in Central Bedfordshire; and**
- (c) Members of the travelling public.**

REG/09/37 **Duration of Combined Hackney Carriage and Private Hire Driver Licences**

The Committee received and considered the report which sought instructions on whether or not Members wished to carry out a consultation with the hackney carriage and private hire trade in order to ascertain their views with regard to the issue of three year combined hackney carriage and private hire drivers licences.

At the meeting of the Regulation Committee held on 13 January 2010 the Committee resolved that licences should be renewed on an annual basis rather than every three years.

On 12 October 2010, a request was made that the Council review its decision on the duration of driver licences. The Councillors in attendance at the monthly drivers' forum agreed to put the request forward.

Therefore the Committee was asked to agree a 12 week consultation to seek the views of the hackney carriage and private hire trade on the issue of three year driver licences.

RESOLVED

that a 12 week consultation be carried out with the hackney carriage and private hire trade to seek their views on the issue of three year driver licences.

REG/09/38 **Adoption of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and Section 27 of the Policing and Crime Act 2009**

The Committee received and considered the report which requested the adoption of the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982, for the licensing of Sexual Entertainment Venues. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 has been amended to empower local authorities to licence not only "sex establishments" which covered sex cinemas and sex shops but following the introduction of Section 27 of the Policing and Crime Act 2009, "sexual entertainment venues" as well. The legislation would come into effect from 1 April 2011 ("the first appointed day").

It as noted that the adoption of the legislation will:-

1. allow local people to raise objections to an application for a sex establishment licence if they have legitimate concerns that a sexual entertainment venue would be inappropriate. Such objections could be based on the character of the area, for example if the area was primarily residential or next to a school etc.
2. require licences to be renewed at least yearly. At the point of each renewal local people will have the opportunity to raise objections with the local authority.

3. allow a local authority to set a limit on the number of sex establishments as they consider appropriate for the area.
4. allow a local authority to impose a wider range of conditions on the licences of lap dancing clubs than they are currently able to under the Licensing Act 2003.
5. allow the local authority to set reasonable fees to cover administration and enforcement costs. (Suggested fees will be proposed during the consultation period, for agreement by the relevant working group).

Local Authorities were not required to adopt the legislation. However, if the legislation was not adopted then after 6 April 2011, consultation with local people must be undertaken to ask whether the legislation should be adopted.

South Bedfordshire District Council and Mid Beds District Council had both adopted the original Schedule 3. The amendments to Schedule 3, which were a result of Section 27 of the Policing and crime Act 2009, require the Schedule to be readopted. Premises which were previously "Regulated entertainment" under the Licensing Act 2003 licences would be required to obtain a sex establishment licence.

Central Bedfordshire currently have four establishments which would be regulated by provisions contained in Schedule 3; two sex shops and two sexual entertainment venues. To date, these venues have been regulated by the addition of voluntary conditions on their premise licence under the Licensing Act 2003.

It is recommended to Council that the legislative provisions be adopted to come into force on 1 April 2011. The Council must then publish a notice in a local newspaper for two consecutive weeks confirming the resolution had been passed and its general effect. The first notice must appear no later than 28 days before the provisions would be due to come into force.

The Regulation Committee also requested that the Constitution Advisory Group revise the scheme of delegated responsibilities to add to the Regulation Committee delegations "Powers to licence sexual entertainment venues" in Part E2 Annex D of the Constitution.

Any existing premise could apply for a sexual entertainment venue licence between 1 April and 1 October 2011 ("the second appointed day"). All applications would be determined collectively after 1 October 2011. The granted licences would be effective from 1 April 2012 (the "third appointed day").

Recommended to Council:-

1. **that the relevant provisions to enable the regulation of sexual entertainment venues be adopted and these provisions come into force on 1 April 2011 as "the first appointed day".**

2. that the responsibility for the licensing of sexual entertainment venues be delegated to the Regulation Committee and the Constitution Advisory Group be asked to amend the Constitution accordingly.

REG/09/39 **Adoption of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982**

The Committee received and considered the report which sought approval to publish a notice of the draft resolution in relation to the adoption of the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982, for the licensing of Street Trading.

The adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 would enable the Council to control the numbers and quality of street traders in the area.

The definition of "street trading" is the selling or exposing or offering for sale of any article (including a living thing) in a street.

For the Schedule to be successfully adopted, the Council must have published a notice containing a draft of the resolution (Appendix A to the report) in a local paper. The Police and Highway Authority must also receive be served with the notice and the invitation that representations may be made within 28 days.

Following the conclusion of the consultation, should representations not be resolved by Officers a report would be brought to 17 February 2011 Regulation Committee meeting. The resolution from the Regulation Committee would then be taken to Full Council on 24 February 2010 for a decision to adopt or reject resolution. If the resolution is passed a second notice must be placed in the local newspaper for two consecutive weeks stating that they have passed the resolution and its general effect. The first publication must be no later than 28 days before the provisions would be due to come into force.

Should the Council resolve to adopt the legislation, the operator of a premises would be required under the Act to apply for consent to trade.

Adoption of this legislation will:-

1. allow the Council to control the number and quality of street traders in the area.
2. highlight the requirements and standards expected of street traders.
3. add vitality and choice to town centres.

4. allow the local authority to set reasonable fees to cover administration and enforcement costs. (suggested fees will be proposed during the consultation period, for agreement by the relevant working group).

RESOLVED

that the publishing of a notice containing a draft resolution in relation to the adoption of the relevant provisions to enable the regulation of street trading from 1 April 2011, be approved.

Recommended to Full Council:-

that Regulation Committee recommend that Full Council adopts the relevant provisions to enable regulation of street trading, subject to there being no outstanding, or unresolved, negative representations, and that these provisions come into force on the 1 April 2011.

(Note: The meeting commenced at 10.00 a.m. and concluded at 11.40 a.m.)

Chairman

Dated