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Regulatory Committee

Monday, 5 June 2006 6.30 p.m.
Town Hall, Runcorn

A handwritten signature in black ink, appearing to read 'David W R'.

Chief Executive

COMMITTEE MEMBERSHIP

Councillor Ged Philbin (Chairman)
Councillor Stephen Pearsall (Vice-Chairman)
Councillor Arthur Cole
Councillor Carl Cross
Councillor Philip Drakeley
Councillor Robert Gilligan
Councillor Diane Inch
Councillor Alan Lowe
Councillor Steff Nelson
Councillor Ernest Ratcliffe
Councillor Kevan Wainwright

*Please contact Gill Ferguson on 0151 471 7395 or e-mail gill.ferguson@halton.gov.uk for further information.
The next meeting of the Committee is on Tuesday, 27 June 2006*

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

Part I

Item No.	Page No.
1. MINUTES	
2. DECLARATION OF INTERESTS	
3. LICENSING ACT 2003 - REPORT	1 - 8
4. TAXI MATTERS	9 - 12

In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

REPORT TO: Regulatory Committee

DATE: 5 June 2006

REPORTING OFFICER: Chief Executive

SUBJECT: Licensing Act 2003 – Report - Licensing

WARDS: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 For members of the Regulatory Committee to be advised of the content of the recent licensing report from the House of Commons

2.0 RECOMMENDATION: That the Committee considers the report

3.0 SUPPORTING INFORMATION

3.1 The report was compiled by the ODPM and was published on 17 March 2006.

3.2 As there were many problems encountered with the implementation of the Licensing Act 2003 by Local Authorities during the transitional period the report outlines the conclusions and recommendations.

4.0 POLICY IMPLICATIONS

N/A

5.0 OTHER IMPLICATIONS

N/A

6.0 RISK ANALYSIS

N/A

7.0 EQUALITY AND DIVERSE ISSUES

N/A

**LIST OF BACKGROUND PAPERS UNDER SECTION 100d OF THE
LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact Officer
Alcohol Audit	Municipal Building	Kay Cleary

APPENDIX TO ITEM NO. 3

Conclusion

85. The Licensing Act 2003 gave the Department for Culture, Media and Sport the opportunity to simplify the licensing regime and reduce the regulatory burden on local authorities and licensees alike. The Act also aimed to provide residents with greater powers to object, and more involvement in the decision making process.

86 It is clear, that at present, the many problems encountered during the transition period are clouding the issue of whether the Act will be successful in these aims. It is unfortunate that so many errors have been made in the DCMS's planning during this time. There has been considerable stress on all parties, who were forced to deal with late regulations and guidance, inconsistent advice, unclear and irregular information and inadequate support.

The ODPM failed local authorities; the department is there to support the workings of local authorities. We see little evidence that this was done during the transition period. Nor was action taken when direct appeals were made.

87. We hope that the DCMS review of guidance, and the Elton Review on fees will address many issues we have brought to the government's attention. We regard the establishment of these reviews as a first step towards rectifying the problems inherent in the current system. The reviews should however seek to avoid imposing changes that will only cause further administrative burden, confusion of bad feeling.

Conclusions and recommendations

Introduction

1. We look forward to the final report of the Independent Licensing Fees Review Panel and expect that our Report will be of use to the Review. (Paragraph 6)

Timescale

2. We are not convinced that a longer period for applications was needed, but consider the administration of the process within this time to have been lacking to the extent that applicants were disadvantaged, and local authorities put under unnecessary strain. The First Appointed Day could have been delayed once it was clear that the Regulations would be laid so close to the start of the six month transition period; inflexibility regarding the date of implementation is unproductive if the required legislation cannot be produced in a timely fashion. (Paragraph 11)

3. Imposing a two month time limit on licence application decisions without any flexibility to allow for the volume of applications was unrealistic. The Government should not impose time limits of this sort again without adequate provision for

change if necessary. (Paragraph 12)

4. We urge the Government to introduce a mediation procedure into the process, in order to foster better relations between licensees and residents, to reduce the burden on magistrates' courts and to minimise the cost to applicants. It is disappointing that the two month deadline on decisions imposed during the transitory period may have prevented successful mediation in some cases. (Paragraph 15)

5. We agree with the Elton Review's suggestion that an Annual Day for the payment of fees be established, although we do not wish to see licensees suffer financially from such an arrangement. Licensees who would be substantially disadvantaged by the introduction of an Annual Day should receive a pro-rata rebate of the first year's fee. (Paragraph 18)

Fees and Funding

6. We expect the DCMS to iron out the inconsistency that prevents residents from objecting to Temporary Event Notice applications. (Paragraph 21)

7. We are concerned that the handling of Temporary Event Notices by local authorities appears to be poorly co-ordinated. We welcome the inclusion of the subject in the Elton Review and recommend that the system be revised to ensure consistency and fairness. (Paragraph 22)

8. We look forward to the conclusions of the Elton Review concerning flat rate fees. (Paragraph 25)

9. We are aware that the Elton Review will be considering the impact of fees on very small businesses and has received evidence on the subject from some of those who informed our inquiry. The review has yet to make its opinion known on these 'stakeholder issues' but we hope that the final report of the review makes the disproportionate impact of fees on small operators an important part of its recommendations. (Paragraph 28)

10. We welcome the Elton Review's intention to examine the implications for local authority finance of the new licensing regime. Local authorities should not be left out of pocket by the new fee structure. (Paragraph 30)

Guidance

11. The dilatory approach on the part of the DCMS was completely unacceptable, and left local authorities open to challenges based on guidance produced after they had already been obliged to make decisions. (Paragraph 33)

12. The Government took an unacceptable time to produce statutory guidance. No adequate reason has been given for the late production of such important paperwork. The DCMS should have foreseen both the need for timely production

of the guidance and regulations, and the amount of work needed to produce the guidance within the right timeframe. The short timescale also meant that it was not possible to try out the guidance, which could have eliminated many of the problems experienced by local authorities in the transition period. (Paragraph 36)

13. The timing of the delivery of the statutory guidance, which did not appear until nearly two years after the Act was passed, caused expense, inconvenience and stress for local authorities, already faced with implementing a massive licensing change. The Government failed in its duty to support implementation of its legislation by providing local authorities with the appropriate guidance in a timely fashion. Next time a major piece of legislation is passed requiring significant work on the part of local authorities, for example, the forthcoming Gambling Act, consistent guidance must be published before local authorities are required to act. (Paragraph 39)

14. There are many small businesses in England and Wales run by people who do not have English as a first language and we find it reprehensible that this material was only made available in other languages late in the transition period. DCMS severely let down a proportion of potential licence applicants by lack of preparation. (Paragraph 41)

15. The DCMS let licence applicants down by failing to provide a satisfactory level of support. Resources were introduced late or failed to appear as promised. Government departments should make every effort to plan and deliver all necessary resources to all parties during the implementation of legislation. (Paragraph 44)

16. We recommend that the DCMS include the guidance available to residents in its review to ensure clarity. (Paragraph 45)

17. Local authorities, or those organisations co-ordinating their activities, should make greater efforts to ensure good practice is established when implementing new legislation. (Paragraph 47)

18. The DCMS should ensure that its review of the guidance looks at the issue of local authority consistency in the implementation of the Licensing Act and the need for best practice information. (Paragraph 49)

19. While we are very glad that the DCMS has recognised the need to improve the current guidance, the process should be sensitive to the implications of any changes. The review will inevitably cause disruption for some; unfortunately it is necessary given the failings of the Department's original guidance. (Paragraph 50)

Zoning

20. The confusion between the Act and the statutory guidance regarding the issue of zoning is unhelpful. We recommend the Government clarify its position towards the issue of zoning in the reviewed guidance, and make the right of local authorities to create zones of cumulative impact explicit, so that local authorities and licensees alike can understand the aims of the Act in this respect. (Paragraph 55)

Small Operators

21. We are concerned that the new licensing system will discourage community facilities from carrying out the range of activities they have previously engaged in, and this goes against the ODPM's drive for sustainable communities. We expect the DCMS to take this fully into consideration when assessing the results of research into the effect on village halls and similar organisations. (Paragraph 58)

22. We consider that the impact on small operators should be a prime focus of the reviews of the Act and its workings. The DCMS should look urgently for a solution to the problem of small operators which are stagnating or ceasing activities as a result of the new fees structure. (Paragraph 61)

Regulatory burden

23. ODPM should provide clear leadership to local authorities as they implement the Licensing Act 2003, and make clear its role as the department responsible for local government structures and working. Government should ensure that, if it claims to be legislating to reduce regulatory burden, this actually occurs (Paragraph 65)

24. We endorse the findings of the Elton Review concerning the application process and ask the Government to consider whether such prescriptive requirements are necessary, particularly in relation to small operators. (Paragraph 69)

25. The DCMS should take account of the complaints of residents to discover if there are acceptable resolutions to the problems encountered by those formally objecting to licence applications. (Paragraph 71)

Application Process

26. The DCMS should include provision for flexibility in the membership of Licensing Sub-Committees when reviewing the Licensing Act 2003. (Paragraph 73)

27. We recommend that the restriction placed on elected representatives who wish to act against licensing applications on behalf of others be lifted. It would also be expedient for licensing officials to have the power to make representations against applications. (Paragraph 74)

28. The ODPM should investigate the feasibility of issuing good practice guidelines within local authorities to ensure effective co-ordination. (Paragraph 76)

29. The DCMS and the Department for Constitutional Affairs should make clear whether they have practical plans to help magistrates' courts deal with high demand arising from the new licensing regime, and should ensure that any revision of the guidance likely to lead to an increase in appeals is introduced in a way that eases the burden on the courts. (Paragraph 78)

30. We urge DCMS to consider the evidence presented to us on the matter of overly prescriptive regulations when reviewing their guidance, and to investigate the feasibility of a 'slip rule'. (Paragraph 84)

Conclusion

31. The ODPM failed local authorities: the department is there to support the workings of local authorities. We see little evidence that this was done during the transition period. Nor was action taken when direct appeals were made. (Paragraph 86)

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REPORT: Regulatory Committee
DATE: 5 June 2006
REPORTING OFFICER: Chief Executive
SUBJECT: Taxi licensing matter
WARDS: Borough-wide

1. PURPOSE OF REPORT

Roy Woodward of 35 Church Street Widnes currently holds SSD Licence No 927 and HCV Licence no 248. Mr Woodward has requested an age increase for a vehicle he intends to purchase and use as a Hackney Carriage Vehicle.

2. RECOMMENDED:

That the Committee considers whether to allow the age of this particular vehicle to be licensed for 15 years as opposed to the 8 years currently allowed

3. SUPPORTING INFORMATION

- 3.1 Mr Woodward currently has a Skoda Octavia licensed as a Hackney Carriage Vehicle.
- 3.2 Mr Woodward has advised the licensing section that he wishes to transfer this licence to a Volkswagen Euro Cab and has requested that the 8 year age limit on non-carriage office vehicles be extended to 15 years.
- 3.3 The reasons Mr Woodward has given for increasing the age limit is that the vehicle has wheelchair capacity and compared with the Hackney Carriage London style cab the Volkswagen is far superior. It is more comfortable and spacious and is built to a very high specification. In addition the cost of the vehicle is £30,600.00
- 3.4 Mr Woodward will attend the committee meeting in support of the application.

4. COUNCIL CRITERIA ON AGE LIMITS

- 4.1 The Councils criteria on age limits for qualifying vehicles are: -

Purpose Built Hackney Carriages (Approved by the Public Carriage Office)

No age limit but generally have been manufactured since 1988

Saloon, estate, multi purpose and multi seat vehicles

Under 8 years old

- 4.2 An age limit on non-purpose built vehicles was requested by the taxi trade to ensure the image and quality of the vehicles was maintained.

5 ISSUES FOR THE COMMITTEE TO CONSIDER

- 5.1 If this approval were given how would the Council deal with any other request to increase the age limit on vehicles?

6 OPTIONS

- 6.1 The options available to the Committee are:

- (a) Grant the request
- (b) Grant the age increase but for a lesser period of time
- (c) Refuse the request

7 POLICY IMPLICATIONS

None

8 OTHER IMPLICATIONS

None

9 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Application Documents	Legal Services	John Tully

NAME OF BOARD: Regulatory Committee

DATE OF MEETING: 5 June 2006

REPORT TITLE: Taxi Licensing Matter

AUTHOR: Kay Cleary

STANDARDS SECTIONS – CHECKLIST

All reports must be submitted together with the following checklist **fully completed**

	Yes	No
<p>Resource Implications</p> <p>The financial, manpower and land (buying or selling) considerations should be clearly detailed including any corporate implications of following the recommended course of action.</p>	N/a	
<p>Social Inclusion Implications</p> <p>Any implications relating to social inclusion/anti-poverty should be highlighted.</p>	N/a	
<p>Sustainability Checklist</p> <p>Any implications that affect the sustainability themes of economy, society and the community and the environment should be included.</p>	N/a	
<p>Best Value</p> <p>Any Best Value implications should be included.</p>	N/a	
<p>Legal Implications</p> <p>Any legal implications should be included.</p>	Yes	
<p>Crime and Disorder Issues</p> <p>Any crime and disorder implications should be included.</p>	Yes	
<p>Human Rights Acts Implications</p> <p>Any human rights acts should be included.</p>	Yes	

Please review these potential effects, within the context set out overleaf, to compose your summary assessment

Summary assessment of Implications: *This wording will appear in the Board report.*

If the checklist is not submitted or incomplete the report will not go forward onto the Agenda and will be returned to the author.