

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING COMMITTEE

Minutes of the Meeting held on 17 September 2020 at 10.00 am

Present:-

Cllr J J Butt – Chairman

Cllr J Bagwell – Vice-Chairman

Present: Cllr S C Anderson, Cllr S Baron, Cllr R Burton, Cllr N Decent,
Cllr B Dion, Cllr B Dove, Cllr B Dunlop, Cllr M Earl, Cllr G Farquhar,
Cllr D Farr, Cllr D A Flagg, Cllr T Johnson and Cllr D Kelsey

Also in attendance: Cllr V Slade

1. Election of Chairman

RESOLVED that Cllr J J Butt be elected Chairman of the Licensing Committee for the 2020/2021 Municipal Year.

Voting: Unanimous

The outgoing Chairman, Cllr D Flagg, thanked Committee members and officers for their support over the last 16 months and for responding well to the challenges of virtual meetings during this period. In particular he thanked Cllr D Kelsey for his support on various sub committees. He wished the new Chairman well in the role.

2. Election of Vice Chairman

RESOLVED that Cllr J Bagwell be elected Vice Chairman of the Licensing Committee for the 2020/2021 Municipal Year.

Voting: Unanimous

The new Chairman, Cllr J J Butt, and members of the Committee thanked Cllr D Flagg and Cllr G Farquhar for their work as Chairman and Vice Chairman over the last 16 months.

3. Apologies

There were no apologies for this meeting.

4. Substitute Members

There were no substitute members for this meeting.

5. Declarations of Interests

There were no declarations of interest on agenda items considered at this meeting.

6. Confirmation of Minutes

RESOLVED that the minutes of the Licensing Committee held on 4 March 2020, and the minutes of the Licensing Sub Committees held on 24 February, 3 and 17 March, 14 and 28 April, 4 and 20 May, 16 June, 8 and 21 July, and 12 and 19 August 2020, be confirmed as a correct record, subject to the following addition:

Licensing Sub Committee, 14 April 2020 – Minute 123 – Cllr B Dunlop asked that her vote against the resolution be recorded in the minutes of the meeting.

7. Public Issues

The Chairman reported that two public statements had been received in relation to the draft hackney carriage and private hire policies from Mr David Lane and Mr Calvin Dade, both representing Poole Taxi Association. These statements had been published on the Council's website and a link circulated to all Committee members. The statements would be referenced further when considering the relevant agenda items.

8. Licensing Act 2003 - Review of Statement of Licensing Policy (SOLP)

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

It was noted that this was the first Statement of Licensing Policy for BCP Council since the establishment, on the 1st April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole. Consultation on the proposed SOLP had been undertaken in accordance with Section 5 of the Licensing Act 2003 and agreed by Members of the Licensing Committee. The Licensing Manager explained that due to significant feedback and proposed amendments following public consultation on Version 5 of the SOLP, a further six week consultation on Version 6 had taken place. The Licensing Committee on behalf of the Licensing Authority was now required to consider the final draft of the SOLP (Version 7, attached at Appendix 1 of the report) and all responses received (listed in Appendix 2 of the report), and decide whether to include or exclude the responses and provide reasons for its decision.

The Committee confirmed its agreement with the action already taken by officers as indicated against the consultation responses listed in Appendix 2.

The Chairman explained that the Committee would now consider the following responses which were highlighted in the document for discussion and decision:

Paragraph number	Respondent	Summary of Comments	Committee Decision	Reason
6.6	Roger Brewer, Upton Country Park	Perhaps helpful to confirm that Council premise licence is for 4999 capacity, does not include alcohol and is only available subject to agreement and conditions. Larger events required to apply for own premise licence - past examples have included Starlight 'Dance in the Park' hosted at Upton Country Park in 2019 which attracted an audience of over 7k.	Exclude	Amendment unnecessary as already have provision under BCP Council licence and 6.6 applies across BCP. Works well as it is. Could be onerous on individuals and licensing team.
7.3	Sandra Graham, Trethrowans LLP	Effectively repetition of 1.2	Exclude	Helpful to restate timescales in different section of document, for clarity
8.3/8.4	As above	Combine wording with 8.7 as so similar, in order to be succinct	Exclude	Helpful to retain wording as is, for clarity
8.8	As above	Repeat of 1.4	Exclude	Retain, as helpful to restate licensable activities in different section for clarity
Section 9	Martyn Underhill, Dorset Police and Crime Commissioner	Concerned that changes appear to advocate lighter touch than previously and removes previous BBC	Exclude	No substantial evidence received from any of the Responsible Authorities following the Licensing

		Cumulative Impact Special Policy that was kept under regular review. New proposal states that BCP Council may produce Cumulative Impact Assessment Policy. Given issues and hotspot areas that already exist I would expect to see such a Policy produced and continue to be kept under regular review.		Authority's 'call for evidence' to support the designation of a cumulative impact zone in BCP Council area. V6 was amended to reflect this. Needs to be evidence based in accordance with the Licensing Act 2003 and associated guidance. Position can be reviewed at any time should evidence be provided and the Committee discussed and noted the process for doing so.
10.4	Sandra Graham Trethowans LLP	Helpful to clarify rebuttable presumption of what	Accept	Accept paragraph can be deleted as relates to Cumulative Impact area
10.9	As above	Are all licensees regardless of type of premises expected to maintain ongoing review of need for alternatives to glass? If so, do you require this to be documented. If not, how is compliance with this proved?	Exclude	Accept officer evaluation that all premises expected to include this in risk assessments, which should be available on request by authorised officer. Include reference to risk assessment in paragraph.
12.3	Martyn Underhill, Dorset PCC	It isn't clear what the current 'mix/diversity' looks like and how used to inform future licensing decisions. Would like to see a Cumulative Impact	Accept	Accept officer recommendation to remove section as misleading and outside of Licensing Authority powers. All applications dealt with in accordance with Act and

		Statement or Policy that addresses this and allows for informed and evidence-based decision making. Also mindful of current situation and recovery process from Covid-19 which is likely to have a significant impact on a number of businesses and premises and could see the diversity of premises also change as a result.		regulations.
14.8	Sandra Graham Trethowans LLP	Providing information on the premises of local taxi companies who can provide safe transportation home. The word safe in this context concerns me as whilst it is very much hoped it is safe the operator of the licensed premises cannot vouch for the fact that the taxi called is safe	Accept	Agree with reasoning and suggestion to amend wording to include licensed taxi company and remove word 'safe'
14.18	As above	Likely to be problematic and cause issues for licensee whose licence goes well beyond these licensing hours at night particularly where hotels are concerned. Is the suggestion	Accept	Agree with reasoning and amend wording to 'After 2300 consideration should be given to the impact of patrons using the outside smoking areas. LA normally expect public use of external areas

		that such persons wishing to smoke then move to a public pavement or similar after 11pm?		in licensee's control to cease at 2300, or additional controls of patrons put in place'
14.34	Jill Aiken, Strategic Safeguarding and Quality Manager, BCP Council	Please add something which refers to delivery of alcohol also having Challenge 25 scheme used	Accept	Agree with suggestion to add wording to include alcohol delivered in bullet point referencing Challenge 25, for clarity.
19.1	Sandra Graham, Trethowans LLP	Does some council area refer to some areas within BCP council or generally geographically across the country, requires clarity	Accept	Agree can be removed from paragraph as generic for the country
23.1	As above	Second sentence needs clarity and costs being awarded against who	Accept	Agree to add following at end of paragraph for clarity: costs being awarded to either party depending on the outcome of appeal
Protection of Children from Harm - Staff training	Julia Palmer, JCP Law	Remove reference to TSSW specific training.	Accept	Agree with comments made that too prescriptive, many operators have own training procedures, onus of premise licence holder to ensure staff appropriately trained. This training has not inconsiderable cost element, which could be unacceptable burden to applicants.
Prevention of Crime and Disorder –	Philip Day, Laceys Solicitors	This makes it look as if this would be the norm – what	Amend	Not the norm, condition usually qualified by a reference to sales

ABV Limit		about craft beers, etc?		of single cans or bottles of less than 2litres in volume. Agree to add reference that condition is applied as needed depending on application (for example, where there are particular concerns about street drinking).
Prevention of Crime and Disorder – Off Sales	As above	Third paragraph – alcohol outside shall only be consumed by patrons seated at tables	Accept	Delete. Agree with comment made that this would result in patrons not being able to stand and drink in a beer garden. Either people will be allowed to take alcohol away from the premises or won't be. Difficult to enforce.
Protection of Children from Harm – Challenge 21 or 25	As above	Amend first paragraph to delete words in brackets	Accept	Agreed
Protection of Children from Harm – Staff training	As above	Amend wording to replace reference to TSSW to read “shall be trained with regard to the law on restricted sales (to persons who are under the age of 18 and/or intoxicated) and with regard to the terms and conditions of the premises licence....A written record of all staff training shall be maintained and kept on the	Accept	Agree to amend wording, reflects previous comment made by Julia Palmer above, and noted that inclusion of restricted sales covers everything

		premises and made available on request to the police or other authorised officers.”		
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RESOLVED that the Committee records its thanks to the Licensing Manager and the Licensing team for their work in preparing the new Statement of Licensing Policy for BCP Council

RECOMMENDED that the final version of the Statement of Licensing Policy as amended by the Committee be adopted by Full Council.

Voting: Unanimous

9. Consideration of draft Taxi and Private Hire Policies for BCP Council for public consultation

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

The Committee was advised that these were the first draft hackney carriage and private hire policies for BCP Council since the establishment, on the 1 April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole. For ease of reference the overall policy had been split into three documents covering the Drivers Policy, Vehicle Policy and Operators Policy, circulated as appendices to the report. Each policy was intended to apply to all drivers, vehicles and operators in each of the three current controlled zones.

The Licensing Manager explained that the draft policies had been developed with the support of a Member Working Group appointed by the Licensing Committee, comprising Councillors Butt, Farquhar, Flagg, Johnson and Kelsey. The Committee was grateful to the Working Group and supporting officers for their input. Workshops had also taken place with representatives of the taxi trade for the BCP Council area and their input included in the draft policies. The Committee was asked to consider the draft policies, amend them as necessary and agree them for public consultation.

The Chairman explained the process for considering each policy in turn and asked the Committee to focus on the main issues for discussion and decision. Any typographical points would be addressed by officers prior to the documents being released for public consultation.

Draft Hackney Carriage and Private Hire Driver Policy (Appendix 1):

The Committee discussed the policy and agreed the following actions:

Section 14 Driver Dress Code:

- 14.9 Amend to read ‘Headwear such a baseball caps is not permitted *except in religious or medical circumstances*’, as the Committee was mindful that there were certain circumstances where an exception should apply. The Committee asked that its suggested additional wording in italics be agreed in consultation with Council’s Equality and Diversity Officer.

Appendix A - How to Apply:

- DBS Online Application Instructions: The Committee asked the Licensing Manager to report back to its December meeting to confirm that the application process on the BCP Council website requires the completion of Yes/No field and the completion of a declaration which includes reference to it being a criminal offence under the Theft Act 1968 to gain financially by deception.
- Application Process: Agree to amend to BCP as indicated
- Knowledge Test: Agree to additions as indicated
- Child Sexual Exploitation and Human Trafficking Awareness Training: Agree that training should be delivered in person at the point of application and renewal for all drivers, to ensure training is robust and up to date. The Committee discussed options for how the training should be delivered and agreed to refer this matter to the Children’s Services O&S Committee for input, with a report back in time for the December Licensing Committee
- Data Matching: Agree to include NAFA data statement as well

Appendix B – Conditions of Licence - Section 2: Conduct of Driver:

- Agree to include links as indicated

Appendix D – Section 4 – Offence of Dishonesty:

- Amend paragraphs 4.6 and 4.7 for clarity to read ‘caution(s) or conviction(s)’ where the word ‘conviction(s)’ is used (and apply same amendment to corresponding section of vehicle and operator policies).

Draft Hackney Carriage and Private Hire Vehicle Policy (Appendix 2)

The Chairman read aloud the two public statements received from representatives of Poole Taxi Association: Mr David Lane in support of

vehicle CCTV installation being optional, and Mr Calvin Dade in support of introducing a limit on vehicle numbers in the Christchurch zone.

The Committee discussed the policy and agreed the following actions:

Section 9 – Vehicle emission requirements:

- Agree to include paragraph 9.5 regarding all licensed vehicles meeting the Euro 6 emission standard by 31 March 2023.

The Committee felt that this allowed a reasonable period of time for members of the trade to make arrangements for vehicles to be compliant.

Section 13 – CCTV and other electronic equipment:

- Include Section 13 in the policy to ensure vehicles with this equipment meet statutory standards in order to protect the public and the driver. Installation to remain optional, on the basis that the policy can be reviewed should the Licensing Authority provide evidence to support the local need for such equipment to be mandatory.

The Committee was mindful that evidence to support a local need for mandatory CCTV was currently lacking. It also noted that any approved CCTV system was required to meet high standards of encryption and security set by the Information Commissioner Office (ICO). This came at a cost of between £600 - £700 per vehicle. The Committee did not support the imposition of additional costs for the taxi trade where need was not demonstrated at the present time, but agreed that anyone choosing to install CCTV must use a system which met the required ICO standards.

Section 16 – Quantity Restrictions on hackney carriage numbers:

- Retain the three Bournemouth, Poole and Christchurch zones
- Increase Hackney Carriage Levels by releasing an additional 15 Wheelchair Accessible Vehicles (WAVs) per year in each of the Bournemouth and Poole zones until 2025
- Remove the cap in the Bournemouth and Poole zones in 2025
- Maintain the 'no cap' in the Christchurch zone, with any additional vehicles to be WAV
- All additional WAVs to be on a permanent basis (i.e. any replacement vehicles must also be WAV)

The Committee was mindful of the Best Practice Guidance issued in 2010, which set out the legal position on restricting the number of taxis in an area provided that there was no significant unmet need and recommended reviewing this position on a regular basis. The latest unmet needs survey dated February 2020, attached at Appendix 4 of the report, concluded that there was currently no unmet need. It was therefore at the Committee's discretion whether to amend the existing limits set by the preceding authorities, which were as follows: Bournemouth – 249, Poole – 88,

Christchurch – no restriction. The Committee was also required to consider whether to create one controlled zone for the BCP Council area or retain the three legacy zones.

The Committee had a thorough discussion before agreeing to include the above provisions in the draft policy. Members supported the principle of removing the caps in Bournemouth and Poole rather than introducing them in Christchurch, in the interests of a free market, but felt that numbers should be increased gradually in stages, to avoid an immediate influx of applications and strain on infrastructure, and to enable licence holders sufficient time to prepare and where necessary make adjustments, particularly those who may have recently invested in a plate. In the interests of fairness and transparency, and as the new vehicle policy was due to be reviewed in 2025, the Committee agreed that 2025 would be an appropriate time to lift the caps completely.

The Committee supported a similar phased approach for the use of WAVs. Members agreed that additional vehicles released in Bournemouth and Poole between now and 2025 and any new vehicles in Christchurch should be WAVs. Including a provision in the policy for the WAV to be on a permanent basis would ensure that any replacement vehicle was also required to be a WAV. The Committee agreed to include the retention of the three legacy zones of Bournemouth, Christchurch and Poole in the draft policy, in recognition of their different demographic and individual needs.

It was noted that taxi trade representatives and individual drivers would have the opportunity to comment further on the draft policies as part of the public consultation.

Section 27 – Accidents/damage to vehicles and temporary substitution:

- Include paragraph 27.4 and specify *within seven days* of the application

Appendix D – CCTV Specification:

- Retention of Images / Use of the Information / The Data Controller / Third Party Data Processor – agree to include text as indicated

Draft Private Hire Operator Policy (Appendix 3)

The Committee made no further comments or amendments to the draft policy.

RESOLVED that the draft Hackney Carriage and Private Hire Driver Policy, the draft Hackney Carriage and Private Hire Vehicle Policy, and the draft Private Hire Operator Policy, as amended by the Committee, be agreed for public consultation.

Voting: Unanimous

Cllr V Slade left the meeting at 11.30am
Cllr D Flagg left the meeting at 1.45pm

The meeting was adjourned between 11.35am and 11.45am
and 1.45pm and 1.55pm.

The meeting ended at 2.05 pm

CHAIRMAN