



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 8 SEPTEMBER 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor J McNeil (Chair)
Councillor J McMillan
Councillor D Grant
Councillor J Caldwell

Council Officials Present:

Ms C Molloy, Legal Adviser
Ms G Herkes, Licensing Officer
Ms D Elworthy, Licensing Officer

Others Present:

Insp A Harborow, Police Scotland (Items 1-6)
PC H Bowsher, Police Scotland (Items 1-6)
Mr G Brooks, Chair of East Lothian Taxi and Private Hire Association (Item 5)

Clerk:

Mrs F Stewart

Apologies:

Councillor J Williamson
Councillor S Currie

Declarations of Interest:

None

The Chair, with the agreement of the other Members of the Sub-Committee, announced that the Public Items on the agenda would be heard first.

PUBLIC

4. METAL DEALERS LICENCES – NEW CONDITIONS

The Depute Chief Executive, Resources and People Services, had submitted a report to inform the Sub-Committee of the new conditions which now applied to Metal Dealers' licences by virtue of the Air Weapons & Licensing (Scotland) Act 2015.

Catherine Molloy, Legal Adviser, who presented the report, advised that the changes were effectively in two parts. As from 16 March 2016, the statutory definition of a 'metal dealer' was altered from that originally given in the Civic Government (Scotland) Act 1982. The current definition was explained in Appendix 1, Part 1, attached to the report. The other main area to be changed related to the regime governing the keeping of records and forms of payment for which new rules came into effect on 1 September 2016. The new provisions which now applied to all such licences were shown in Part 2 of the appendix. All relevant licence-holders had been made aware of these new provisions in writing. There was no requirement for the Sub-Committee to formally adopt or approve these conditions. As they had been imposed by primary legislation, they would simply take effect on the said dates and all new licences issued after those dates would incorporate the new wording of the conditions.

Councillor McMillan enquired if an itinerant metal dealer (as defined in the appendix) needed an East Lothian licence to operate in this locality and was advised by a Licensing Officer that a metal dealer's licence was valid throughout Scotland. Councillor McMillan also enquired who was responsible for the inspection and enforcement of the record keeping stipulated in the appendix and the Police Inspector replied that further clarification on this point would be helpful.

The Chair stated that the new legislation would assist the Police and therefore be beneficial to the residents of East Lothian.

Decision

The Sub-Committee agreed to note the terms of the new conditions, which were included as an appendix to this report.

5. NEW ARRANGEMENTS FOR THE MEDICAL EXAMINATION OF TAXI DRIVERS

The Depute Chief Executive, Resources and People Services, had submitted a report to inform the Sub-Committee of the new arrangements which are now in place in respect of the provision of services to the Council for the medical examinations required by taxi drivers.

Catherine Molloy, Legal Adviser, presented the report. She stated that for many years the Council had obtained a service from OHSAS (Occupational Health and Safety Advisory Service) for the medical examination of taxi drivers. However, new NHS regulations meant that they would no longer be able to provide this service to the Council. The Council therefore undertook a competitive tendering exercise in respect of a new service, on the basis of Group 2 Medical Standards, in April/May 2016 and a successful candidate was appointed on 3 June 2016. Driver medical services would now be provided by City Health Clinic (CHC) based at Earl Grey Street in Edinburgh and the cost of this service to the Council had been set at £66 per examination. The Council would meet the cost of the initial medical examinations and this sum would be recovered from the licensing fees charged. The cost of any further tests required or follow-up procedures would be the responsibility of applicants. In the past, such costs had fallen to the Council. There would also be a £50 fee charged by CHC in respect of any missed appointments and this fee would also be the responsibility of the applicants. On the basis of the Group 2 medical standards, as adopted by the Council, all drivers aged 45 and over would require to have a medical on a 5-yearly cycle, and all drivers aged 60 and over would require to have a medical on an annual basis.

The Chair welcomed Mr George Brooks, Chair of the East Lothian Taxi and Private Hire Association, and asked if he was comfortable with the changes. Mr Brooks advised that a number of his drivers, all over 60 years old, had been passed by CHC subject to them receiving a medical report from their GPs. He stated that approximately 60% of school runs were carried out by drivers over 60 years of age and they could not afford £150 if only driving 1½ hours per day. The Chair replied that the Council had an obligation to appoint a company to carry out medical tests for taxi drivers in accordance with Scottish Government legislation. The licence fee would be the same for all taxi drivers, whether a health check was required or not. Mr Brooks stated that he had highlighted 2-3 years ago that the sums charged by Shawfair for further tests (following OHSAS checks) was grossly unfair. He considered the level of charges outlined for CHC was more reasonable but it did involve a lengthy process, 2-3 months. He also highlighted that a number of his drivers had suffered as a result of the changes, finding that they needed to undergo CHC checks after being passed by OHSAS, leaving them 'in limbo'.

The Chair enquired if all taxi operators had been informed of the new process for medical testing and a Licensing Officer advised that letters had gone out in June and now applicants completed a medical form with their application form.

Councillor McMillan, Cabinet Spokesman for Economic Development, stated that the Council would want to help any of Mr Brooks's members whose operations were seriously affected by the changes.

Further discussion on the process of the medical testing followed and the Chair asked Mr Brooks if he was comfortable with how the Council had acted. Mr Brooks replied that he was, but he had sympathy for the drivers caught between the two regimes of testing. The Legal Adviser accepted that the transitional period would affect some drivers more than others.

Decision

The Sub-Committee agreed to note the terms of the new arrangements which were now in place.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Licensing Sub-Committee unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

1. Applications for the Grant of a Taxi/Private Hire Car Licence

The Sub-Committee had received one application for a licence and this application was deferred to a future meeting date to be set no later than 12 January 2017.

2. Suspension of Taxi/Private Hire Car Driver's Licences

The Sub-Committee considered one licence which had been suspended at the request of Police Scotland and Members decided to continue this suspension until the expiry date of the licence in March 2017.

3. Private Minutes of Meeting On 9 June 2016 For Approval

With two minor amendments, the Sub-Committee agreed that the minute of 9 June 2016 was a true record of the meeting.