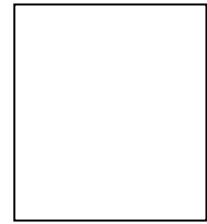




SHEFFIELD CITY COUNCIL Committee Report



Report of: Chief Licensing Officer & Head of Licensing

Date: 27th April 2020

Subject: Officer Delegations in response to the current situation with Coronavirus (Covid-19)

Author of Report: Stephen Lonnia

Summary: To provide additional delegations to the Chief Licensing Officer and Head of Licensing to enable the ongoing management of the Licensing Service during the ongoing situation with Coronavirus (Covid-19)

Background Papers: Not applicable

Category of Report: OPEN

New Temporary Delegations to the Chief Licensing Officer & Head of Licensing

1.0 Purpose of the report:

1.1 To provide additional delegations to the Chief Licensing Officer & Head of Licensing to enable the continued management of the Licensing Service during the ongoing position with Coronavirus (Covid-19)

2.0 Background:

2.1 As members are well aware we are currently facing very different and difficult challenges as we respond to the outbreak of Covid-19 and the lockdown.

2.2 The Licensing Service must continue to administer and perform the Council's statutory duties with regards to the Licensing Functions. This includes the administration of the grant, renewal, transfer and variation of various licences.

2.3 Government have confirmed that they expect decision making to still be undertaken on a normal basis with the ability to do remote hearings. There are no general 'emergency powers' to reinterpret legislation or bypass decision making.

2.4 However, we can change what we do under existing delegations and give new delegations but they have to be done in accordance with normal the schemes.

2.5 Whilst Licensing Committee has set policies, Members will be aware that policy can always be departed from by a decision maker where appropriate. Ultimately the test for grant is the statutory test for grant in each regime, not compliance with policy. Policy is used to help determine those statutory tests but it does not replace it.

2.6 The current Covid-19 crisis has brought about many changes in how business and people operate and that includes on matters relevant to the various licensing functions of the Council. Adapting how we consider applications in light of these changed circumstances is essential.

3.0 Points for Consideration

3.1 Whilst one option would be to consider changes (temporary or permanent) to policies that would not be a straight forwarded or quick task. It is only the Licensing Committee that can change policy and it would require the consideration of each policy in turn. What is not likely to be achievable is varying the policies to cover all possible eventualities in the current lock down and particularly as the changes in restrictions come in over time.

3.2 Therefore proposal is that decision makers look to depart from policy where appropriate and based on the circumstances of each application. Also there is no reason why there cannot be a 'consistent' approach in departing from Policy if there are consistent circumstances that justify it.

- 3.2 One of example of this approach of which Members may be aware is that following a request from Transport Services due to a reduction in available resources we were asked to look at the testing of licensed Hackney Carriage and Private Hire Vehicles to reduce the amount of tests each day so that we required the use of two test bays only.
- 3.3 Following consultation and approval of the Cllr Bainbridge and Cllr McGowan our two Chairs of Licensing, Cllr Johnson our Cabinet Member and Mick Crofts our Director it was decided to cancel all intermediate tests for April, reduce the test from a Compliance Test to MOT only and to re-schedule the remaining tests throughout the month to ensure the use of two test bays.
- 3.4 Members will be aware that the Annual and Intermediate Compliance Test(s) are part of Vehicle Policies and the Council needs to be sure that it is continuing to keep the public safe at all times when they are using licensed vehicles and/or premises etc. That is the reason why we have removed the Compliance part of the test but continue to insist that vehicles are presented for an MOT at the test station.
- 3.7 There has been representation made that we should just remove the requirements all together and permit vehicles and drivers to continue to work without ongoing checks / tests. However it is thought the position of moving to MOT only as a requirement provides the proper balance considering the following;
- how we reduce / prevent non-essential contact to aid the efforts to prevent the spread of Covid-19 and reduce the stress on the NHS and other key services;
 - the statutory test still needs to be met so we need evidence on which to base it;
 - there will be less use of taxis so the need for the normal regime to be relaxed is justified;
 - they will however still be potentially doing more miles that a normal car and be carrying passengers. Therefore the public protection aspect justifies going beyond Government MOT extension;
 - make the process quicker, easier and cheaper for customers in the current climate
- 3.7 Whilst this is an appropriate and pragmatic solution and is a justifiable departure from policy the issue it raises is that the current delegation to the Chief Licensing Officer & Head of Licensing to grant licences has a condition that it is only exercisable where the grant would be in line with current policy. Accordingly, unlike a decision maker with full delegation such as Sub-Committee or Licensing Committee he cannot depart from policy, even where appropriate in the circumstances.
- 3.8 Therefore, it is proposed that Sub-Committee grant an additional delegation to the Chief Licensing Officer & Head of Licensing to grant, renew or vary existing licences in respect of certain licensing functions without the restriction that the grant be in line with policies. This delegation will be exercised in consultation with the chairs of Licensing Committee where appropriate.
- 3.9 It should be noted that this delegation does not permit the Chief Licensing Officer & Head of Licensing to refuse applications, these will be considered by a Sub-Committee in the normal way.

Also all issues in relation to the;

- o Licensing Act 2003;
- o Gambling Act 2005;
- o Sex Establishment Licensing; and
- o Setting of Fees

Will remain the function of the licensing committee as determined via the current scheme of delegations.

4.0 Financial Implications

4.1 There are no financial implications attached to this report.

5.0 Legal Implications

5.1 This report has been checked and approved by Legal Services. Any specific questions regarding the content of the report and the proposal(s) can be directed to the Licensing Committee legal advisor at the meeting.

6.0 Proposal

6.1 That Sub-Committee approves the proposal to deal with Covid-19 related issues by decision makers departing from policy where appropriate rather than seeking a wholesale change of existing Policies

6.2 To provide the Chief Licensing Officer & Head of Licensing with the following additional delegation.

The Licensing Sub-Committee delegates to the Chief Licensing Officer & Head of Licensing the following delegated powers;

- a. to determine all applications for grant, renewal, transfer and variation of licences, permits and consents in relation to the following Licensing Systems only as set out below;
 - Hackney Carriage & Private Hire Licensing (Vehicles, Drivers and Operators)
 - Street Trading – All consent types
 - Animal Health Licensing (Pet Shops, Riding Establishments, Dog Breeders, Dangerous Wild Animals and Animal Boarding Establishments)
 - Street Collections
 - House to House Collections
 - Pavement Café Licences
 - Civil Marriages

6.3 That all licences which have been renewed so far need following the changes made and set out in paragraph 3.3 above are ratified by Licensing Sub-Committee. A list of those licence renewals are set out below;

March 2020 Grants / Renewals;

Registration Number		Licence Plate Number
WR17 BUV	–	PH2201
MV68 NGY	–	PH2203

SH65 DNX	–	PH0083
KW16 DXY	–	PH1995
GY13 LFW	–	PH0375
OY62 PKJ	–	PH1289
BD65 GKN	–	PH2199
SF14 CVR	–	HC0374
MV65 OAA	–	PH0319
YF66 ZTE	–	PH0118
SF56 NXW	–	HC0850
GT08 CAB	–	HC0488
SH56 KYU	–	HC0423
FH11 GDK	–	PH0662

April 2020 Grants / Renewals as on 15th April 2020:

Registration Number		Licence Plate Number
BC15 HFE	–	PH0128
YT61 YRL	–	PH0339
FG15 UOA	–	PH0364
PO61 NBB	–	PH0566
MT19 CWE	–	PH0705

7.0 Recommendations

7.1 That members carefully consider the details in the above report and approve the proposal(s) set out in paragraphs 6.1 to 6.3 above.

8.0 Options

8.1 To approve the proposal(s) set out in paragraph 6.1 to 6.3 above

8.2 To refuse the proposal(s) set out in paragraph 6.1 to 6.3 above and

(a) Take no further action

(b) Recommend a review of all policies to deal with Covid-19 related circumstances.

8.3 The options at 8.2 are not recommended as they do not adequately deal with the speed and rapidly changing nature of the required Covid-19 response as set out in this report. It would also mean additional cases going to Sub-Committee where not necessary and thus use resource that could otherwise be better utilised.

Stephen Lonnia
Chief Licensing Officer & Head of Licensing
15th April 2020

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