

Licensing & Regulatory Committee

Agenda

Date

Wednesday 16 January 2019

Members of the Licensing & Regulatory Committee

Mrs S C Gurney
Chairman

Mr S Dunn
Vice Chairman

Mrs C H Bannock
Mrs J K Copplestone
Mr R J Knowles
Mr K G Leggett MBE
Mr I N Moncur
Mr V Ray-Mortlock
Mrs B H Rix
Mr N C Shaw
Mr V B Tapp
Mr D B Willmott

Time

9:30 am

Place

Trafford Room
Thorpe Lodge
1 Yarmouth Road
Thorpe St Andrew
Norwich

Contact

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If any member wishes to clarify details relating to any matter on the agenda they are requested to contact the relevant Head of Service.



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**The Chairman will ask if anyone wishes to
film / record this meeting**

A G E N D A

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| 1 | To receive declarations of interest under Procedural Rule no 8 | |
| 2 | Apologies for absence | |
| 3 | <u>Minutes of the meeting held on 12 December 2018</u> | 3 – 7 |
| | <i>The following item requires consideration by the Committee:</i> | |
| | Minute 31 – Local Government (Miscellaneous Provisions) Act 1976
– Private Hire Vehicle Licensing | |
| | <u>to consider if the Committee wishes to provide an exemption for all electrically powered vehicles subject to conditions</u> | 6 |
| 4 | <u>The Animal Welfare (Licensing Of Activities Involving Animals) (England) Regulations 2018</u> | 8 – 15 |
| | To consider revision of the licensing regime to comply with the new regulations | |

Trevor Holden
Managing Director

Minutes of a meeting of the **Licensing & Regulatory Committee** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on **Wednesday 12 December 2018** at **3pm** when there were present:

Mrs S C Gurney – Chairman

Mr R J Knowles

Mr D B Willmott

Mr Leon Davies of Zero Taxis (the applicant) attended the meeting for consideration of his application, accompanied by Amanda Cook from Hyundai (Business & Fleet Sales).

Also in attendance were Ms Tamsin Eddison (the Committee's legal advisor); the Food, Safety and Licensing Team Manager; the Technical Officer (Licensing Enforcement) and the Senior Committee Officer.

30 MINUTES

The non-exempt Minutes of the meeting held on 14 November 2018 were confirmed as a correct record and signed by the Chairman.

31 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – PRIVATE HIRE VEHICLE LICENSING

Mr Leon Davies and Amanda Cook were in attendance for consideration of his application.

The Committee considered an application to make an exception to Private Hire Vehicle and Hackney Carriage Policy and Conditions in respect of the engine size of an eco-friendly vehicle.

The Private Hire Vehicle and Hackney Carriage Policy section 7 stated:

“The Council encourages the use of eco-friendly vehicles. Any application to licence a vehicle with an engine capacity of less than 1300cc will be considered on its own merits.”

On 30 May 2018, the Committee considered and granted an application by Mr Leon Davies and Mr James Phillips in respect of the licensing of an electrically powered vehicle, namely a Nissan Leaf. This decision was specific to the Nissan Leaf model.

The applicants had subsequently advised that their private hire business, Zero Taxis, was enjoying considerable success and they wished to license additional electrically powered vehicles which did not have an engine but instead relied on a battery which powered a motor. However, Nissan Leaf models were currently not readily available, hence the application for a Hyundai Ioniq. The Ioniq satisfied all other private hire vehicle licensing specification conditions and a number were currently licensed as private hire vehicles elsewhere. A copy of the specifications booklet was available at the meeting.

The Food, Safety and Licensing Team Manager presented his report in full and advised Members to establish the range of the vehicle and how long it took to charge etc.

Mr Davies advised that electric cars were a game-changer for the taxi service and his clients included Broadland District Council, Norfolk County Council as well as Shell UK etc. These vehicles were the only zero emission taxis in not only Norfolk but the whole of the East of England. He currently had two vehicles, both Nissan Leaf, and his intention was to increase his business and the range of cars operating.

In response to a question on the specification of the Hyundai vehicle, Ms Cook advised that the Premium SE was the “off the shelf” model and customers could purchase extras (eg leather seats) but these could be expensive. The Premium model worked out cheaper than buying a standard model with extras at an additional cost. Mr Davies confirmed that he would purchase the model which was available the earliest.

Regarding the charging facilities required, Mr Davies advised that two types were applicable – Combined Charging System (CCS) and a Chademo and he had both available. However, these were not unique to Hyundai and could be used by other vehicles. Both chargers had two points available and there were two sets of leads available in each of his vehicles.

In terms of the Hyundai Ioniq, this was similar to a Nissan Leaf, having seating for four. The charge period was 30 minutes on fast charge and seven hours for a full, slow, charge. Seven chargers were available in Norwich and 40 superchargers throughout Norfolk. In response to a question on reliability, Mr Davies confirmed that he carried out battery checks during the day and the vehicles had never been near to running out of power. The cars did not grind to a halt but provided warnings and would operate on “limp” mode with facilities like air-conditioning and the heating shutting down to conserve energy. He emphasised that the cars would never stop without warning.

In response to a question on whether he would have preferred to purchase another Nissan Leaf, Mr Davies stated that there were a few reasons why not – he had a good relationship with Amanda (from Hyundai); the Hyundai

vehicle had a range of 300 miles which exceeded the Nissan Leaf and it was cheaper than the Nissan. The Hyundai Kona was similar to a SUV, albeit more expensive than the Ioniq, but would provide a greater range enabling passengers from the oil / gas industry to be taken to Heathrow.

When asked how he could demonstrate public safety, particularly in terms of the life of the charged battery, and the area in which his drivers would operate, Mr Davies stated that the furthest journey undertaken so far was Stansted – he had charged his vehicle there and then made the return journey. In that area, there were 16 chargers within 15 miles and drivers used an app and live data to check their availability. Driving electric vehicles in the Norwich area was easy. In terms of energy efficiency, taking 4,000 miles on average per month, electric vehicles saved 26.4 tonnes of CO² compared to a conventional vehicle.

Mr Davies concluded that he intended to buy the vehicles and start operating with them as soon as possible and his longer-term goal was for five or six vehicles operating from new premises in January / February. He thanked Broadland officers for all their assistance.

Mr Davies, Amanda Cook, the Food, Safety and Licensing Team Manager and the Technical Officer (Licensing Enforcement) then left the meeting whilst the Committee discussed the application.

Having considered all of the information presented to them and having regard to public safety, Members

RESOLVED:

to grant the application and allow an exception to Private Hire Vehicle and Hackney Carriage Policy section 7 in order to licence the Hyundai Ioniq electrically powered vehicle as a private hire vehicle.

Mr Davies, Ms Cook, the Food, Safety and Licensing Manager and the Technical Officer (Licensing Enforcement) were then readmitted to the meeting and advised of the Committee's decision, following which Mr Davies and Ms Cook left the meeting.

Mr Davies was advised of his right of appeal to the Magistrates' Court within 21 days of receiving the written decision.

The Committee then proceeded to consider whether it wished to provide an exception for all electrically powered vehicles providing:

- (1) the vehicle was able to comply with the requirements of all other private hire vehicle licensing specification conditions;

and

- (2) the vehicle had a mileage range between battery charges which made it feasible and viable to operate as a private hire vehicle;

and

- (3) the owner and or operator of the vehicle had ready access to suitable battery charging points to facilitate the satisfactory operation of an electrically powered vehicle.

It was noted that as the committee was only meeting in its capacity as a hearing, comprising three Members, it did not have the authority to make the change to the policy. However, it could offer its support for the proposal.

Members concurred with the proposal as outlined above and

RESOLVED:

to refer the decision to the Licensing & Regulatory Committee with their full support.

32 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

to exclude the Press and public from the meeting for the remaining business because otherwise, information which was exempt information by virtue of Paragraphs 1, 3 and 7 of Part I of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, would be disclosed to them.

33 EXEMPT MINUTES

The exempt Minutes of the meeting held on 14 November 2018 were confirmed as a correct record and signed by the Chairman.

Minute no: 27 – Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Vehicle Driver Licensing

The Committee noted that the driver had made enquiries about submitting an appeal to the Magistrates' Court but had also made arrangements for his licence application fee to be returned.

*Minute no: 29 – Local Government (Miscellaneous Provisions) Act 1976 –
Private Hire Vehicle Driver Licensing*

The Committee noted that the driver had stated his intention to submit an appeal to the Magistrates' Court which would postpone his suspension which was due to commence on Friday 14 December.

The meeting closed at 3:40pm

DRAFT

THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

Report Author: Leigh Booth,
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email: leigh.booth@broadland.gov.uk

Portfolio Holder: Environmental Excellence

Wards Affected: All

Purpose of the Report: This report details the introduction of new regulations relating to the licensing of activities involving animals and the revision of the licensing regime to comply with the new regulations and makes recommendations.

Recommendations:

- 1 The Committee is requested to **RECOMMEND** Council to:
 - (a) delegate authority to the Head of Housing and Environmental Services to appoint authorised inspectors under the Animal Welfare Act 2006;
 - (b) delegate authority to the Head of Housing and Environmental Services to consider appeals against Star Ratings and
 - (c) authorise the Head of Democratic Services and Monitoring Officer to make the consequential amendments to the Constitution.
- 2 The Committee is requested to **RESOLVE** to:
 - (a) agree the table of fees for Animal Welfare Licences as detailed at Appendix 1 and
 - (b) note the resource implications detailed at 5.1 and the proposals discussed at 5.2.

1 SUMMARY

- 1.1 This report details the introduction of new regulations relating to the licensing of activities involving animals and the revision of the licensing regime to comply with the new regulations and makes recommendations.

2 BACKGROUND

- 2.1 The Department for Environment, Food and Rural Affairs (DEFRA) has completed a review of animal welfare legislation and as a result combined a number of pieces of historical legislation into one set of Regulations made under the Animal Welfare Act 2006.

3 CURRENT POSITION

- 3.1 Broadland District Council has historically been responsible for animal welfare licensing activities under six separate pieces of legislation relating to:

- (1) Animal Boarding Establishments
- (2) Breeding Establishments
- (3) Pet Shops
- (4) Riding Establishments
- (5) Zoos
- (6) Dangerous Wild Animals

- 3.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were enacted on 1 October 2018 and introduce a number of changes affecting (1) to (4) above whilst (5) and (6) above remain largely unaffected. The Regulations group animal welfare licensing under one regime with a view to reducing the administrative burden both to business and the regulators.

- 3.3 The new regulations define the following animal based activities for which Broadland will be responsible for licensing:

- (1) The sale of animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.
- (2) Providing or arranging (eg broker or intermediary) for the provision of accommodation for other people's cats or dogs in the course of a business where the provision of accommodation is a purpose of that business.
- (3) Hiring out horses in the course of a business for either riding,

instruction in riding or both.

- (4) Breeding of dogs – three or more litters of puppies in any 12 month period; or breeding dogs and advertising the business of selling dogs.
- (5) Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by recording of visual images of them by any form of technology, or both. (Prior to 1 October 2018 this was an activity licensed by Norfolk County Council.)

3.4 A summary of the Regulations and the main changes to the legislation are contained within the DEFRA Procedural Guidance Notes for Local Authorities (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762430/animal-welfare-licensing-procedural-guidance.pdf) The key features are as follows:

- (1) Applicants can apply for ONE licence to cover one or more of the activities listed.
- (2) Some persons will not be permitted to hold a licence under these Regulations, for example those who have been disqualified from holding a licence under relevant legislation (listed in Schedule 8 of the Regulations).
- (3) Instead of annual licences renewable on a certain date (often 1 January) each licence will run for a term from the anniversary of issue.
- (4) Licences can be issued for 1 year, 2 years or 3 years. This is based on a risk assessment of each licensable activity. The only exception is that for licensing the keeping or training of animals for exhibition the term will be 3 years.
- (5) Inspections will be carried out by suitably qualified inspectors for each licensable activity who must be authorised by the Local Authority under the Animal Welfare Act 2006. In the absence of an authorised inspector a veterinary surgeon must be used for all inspections.
- (6) Veterinary inspections will still be required before the grant of a licence to breed dogs and on each grant / renewal of a horse riding establishment.
- (7) The introduction of a Star rating system from 1 star to 5 stars, dependent upon the risk and standards applied by the person carrying out the activity. This process is detailed in the procedural guidance notes to the Regulations.
- (8) Applicants will have 28 days to appeal to the First Tier Tribunal if their application is refused.
- (9) Applicants will have the right to appeal to the Local Authority against

the star rating awarded and also to ask for a re-rating inspection (for which a fee can be charged).

- (10) The Local Authority will have the right, in certain circumstances, at any time to suspend, vary or revoke a licence.
 - (11) The imposition of mandatory nationally set standard licence conditions rather than locally set conditions.
 - (12) Licensing authorities must advise each licence holder, in writing three months before their licence is due to expire; Licence holders must apply for renewal at least 10 weeks before their current licence expires if they wish to continue operating without a break.
- 3.5 Transitional arrangements provide that an unexpired licence issued in respect of (1) to (4) of paragraph 3.1 will continue in force for the rest of their term; any registration of a person under the Performing Animals (Regulation) Act 1925 will continue for six months from the date these Regulations come into force ie 1 April 2019.
- 3.6 The changes are being publicised by DEFRA via the media plus animal and pet trade associations and Broadland will provide detailed guidance and advice on the Council's website. Broadland District Council has circulated all existing licence holders with preliminary details of the changes.
- 3.7 Local authorities will be responsible for creating their own fee structure in respect of the Regulations. The animal licensing regime falls within the definition of "services" and is subject to the EU Services Directive, incorporated into UK legislation as the Provision of Services Regulations 2009.
- 3.8 Proposed fees will be split into two elements; the Application Fee, payable at the time of application to cover the Council's costs in considering and determining the application; and the Licence Grant Fee, which covers ongoing enforcement and compliance requirements. The Application Fee will be non-refundable. The Licence Grant Fee will be required only upon a decision to grant a licence.
- 3.9 In some cases (dog breeding and horse riding establishments) a veterinary inspection re-charge will also be applicable.
- 3.10 In considering appropriate fees, the following matters are relevant and should be taken into account during the fee setting process:
- (1) The costs of consideration of an application, including any inspection relating to that consideration;
 - (2) Costs of training and maintaining competence (as required by Regulations) of an authorised officer appointed;
 - (3) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a

licence holder is subject;

- (4) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- (5) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 of the Secretary of State.

3.11 A detailed analysis of the costs of each of the matters listed at 3.10 has been completed enabling a draft schedule of proposed licence fees to be compiled (please see Appendix 1).

4 PROPOSED ACTION

4.1 The Committee is requested to review the information contained in this report and request Council to:

- (1) delegate authority to the Head of Housing and Environmental Services to appoint authorised inspectors under the Animal Welfare Act 2006;
- (2) delegate authority to the Head of Housing and Environmental Services to consider appeals against Star Ratings; and
- (3) authorise the Head of Democratic Services and Monitoring Officer to make the consequential amendments to the Constitution.

4.2 In addition, the Committee is requested to:

- (1) agree the Table of Fees for Animal Welfare Licences as detailed at Appendix 1.
- (2) note the resource implications detailed at 5.1 below and the proposals discussed at 5.2 below.

5 ISSUES AND RISKS

5.1 **Resource implications** – The legislative changes will introduce a significant increase in officer activities to deliver the requirements of new responsibilities. The existing responsibilities are dealt with by a licensing officer as part of a general role. However, in future, because of the increased complexity of the legislation and the greater levels of activity arising, all officers dealing with animal welfare licensing will be required by the legislation to have successfully completed specialist training.

Following the systems thinking review, the establishment within the team was assessed and agreed based on the activity levels at that time. There has been no diminution in workload since that assessment, therefore, in order to deliver the activities required by the new legislation additional officer resources will be required.

A detailed review of the activities required by the legislation with costings has been completed in order to inform a decision in respect of the fees structure for the new licensing regime. A conservative estimate gives annual fees income of £11000 including £6700 of additional income. It is envisaged the level of activity associated with the new animal welfare licensing regime will increase as the new legislation takes effect and previously unlicensed operators come forward to regularise existing operations.

Therefore, consideration should be given to creating a specialist post of animal welfare officer. Clearly, the specialist role is not required on a full time basis but the assessment does indicate a resource requirement of two days per week. This post could be largely funded by fees income. Any time released to the general licensing role would be readily and effectively deployed in activities currently unable to be fulfilled.

- 5.2 **Collaboration** – The proposed Animal Welfare Officer role has considerable potential to be developed as a joint post with South Norfolk Council (SNC). It is very likely SNC will require a similar increase in officer resource to deliver the new legislative requirements within the South Norfolk area.

Therefore, in light of collaborative working and the move towards one joint food, safety and licensing team, a cost and operationally effective way forward would be to explore the appointment of a joint post providing activities across Broadland and South Norfolk. The two authorities would benefit from the sharing of the costs of the recruitment, training and the routine operational activities of the specialist officer.

- 5.3 **Legal implications** – Licensing of ‘activities involving animals’ is a function of the District Council. The statutory powers are contained within the Animal Welfare Act 2006 and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

The Local Authority must determine whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet the licence conditions;

A star rating must be applied to each licence granted (except in the case of exhibition animals).

With respect to fees, Regulation 18 of the Provision of Services Regulations 2009 applies which states:

- (2) *Authorisation procedures and formalities provided for by a competent authority under an authorisation must not -*
 - (a) *be dissuasive, or*
 - (b) *unduly complicate or delay the provision of the service.*

Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and

proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.

- 5.4 **Equality implications** – There are no equalities issues specific to the proposals contained within this report.
- 5.5 **Environmental impact** – There are no environmental impact issues specific to the proposals contained within this report.
- 5.6 **Crime and disorder** – The proposals within this report seek to ensure prevention of criminal activity associated with animal welfare by directing the public to licenced premises.
- 5.7 **Risks** – There is a reputational risk to the Council. The Council should issue licences in a timely manner to suitable applicants to ensure animal welfare. Otherwise animal welfare standards are not met and the public could be deceived into buying from/using unsuitable premises.

6 RECOMMENDATIONS

- 6.1 The Committee is requested to **RECOMMEND** Council to:
 - (a) delegate authority to the Head of Housing and Environmental Services to appoint authorised inspectors under the Animal Welfare Act 2006;
 - (b) delegate authority to the Head of Housing and Environmental Services to consider appeals against Star Ratings and
 - (c) authorise the Head of Democratic Services and Monitoring Officer to make the consequential amendments to the Constitution.
- 6.2 The Committee is requested to **RESOLVE** to:
 - (a) agree the table of fees for Animal Welfare Licences as detailed at Appendix 1 and
 - (b) note the resource implications detailed at 5.1 and the proposals discussed at 5.2.

Background Papers

DEFRA Procedural Guidance Notes for Local Authorities

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762430/animal-welfare-licensing-procedural-guidance.pdf

**The Animal Welfare (Licensing of Activities Involving Animals)
(England) Regulations 2018**

Schedule of Proposed Licence Fees

Premises Type	Application Fee	Licence Fee			Inspection Fee
		1 Year	2 Year	3 Year	
Boarding	£86	£106	£160	£214	£81
Homeboarding	£79	£99	£153	£206	£73
Pet Shop	£86	£106	£160	£214	£81
Doggy Daycare	£79	£99	£153	£206	£73
Riding	£93	£113	£167	£221	£88
Breeding	£86	£114	£175	£236	£81
Animal Exhibition	£79			£205	£73

Miscellaneous Fees

Copy of licence	£15
Minor change / transfer of licence due to death	£33
Variation of licence	£75