

Cheltenham Borough Council

Full Licensing Committee

Minutes

Meeting date: 5 March 2025

Meeting time: 6.00 pm - 8.06 pm

In attendance:

Councillors:

Councillor Dr David Willingham (Chair), Councillor Angie Boyes (Vice-Chair), Councillor Dilys Barrell, Councillor Steve Harvey, Councillor Tabi Joy, Councillor Dr Helen Pemberton, Councillor Richard Pineger, Councillor Julie Sankey, Councillor Dr Steve Steinhardt and Councillor Simon Wheeler

Also in attendance:

Vikki Fennell (Senior Lawyer, One Legal) and Michelle Bignell (Licensing and Public Protection Manager) and Jake Johnstone (Senior Licensing Officer)

1 Apologies

There were none.

2 Declarations of interest

Councillors Harvey, Steinhardt and Willingham declared that they had visited Cambray Place prior to the review of item 11.

3 Public questions

There were none.

4 Minutes of the previous meeting

RESOLVED that the minutes of the meeting held on 4 December 2024 were approved and signed as a correct record.

5 Minutes of sub-committee meetings

The minutes of the following sub-committee meetings were approved and signed as a correct record:

8 January 2025 (Licensing Miscellaneous)

5 February 2025 (Licensing Miscellaneous)

6 Deviation from hackney carriage vehicle policy

The Licensing and Public Protection Manager introduced the report as published.

In response to Members' questions, officers confirmed that:

- Currently there is no upper age limit for a Euro 6 vehicle and wheelchair accessible vehicles (WAVs) can operate up to 14 years of age. At first licensing there is a 5-year age limit for saloon vehicles and 8-year upper age limit for WAVs.
- The policy has been varied for other drivers in the past determined on the cases individual merits, either through the medical exemption process or through individual reports being brought before the committee. Only a handful of exemptions have been brought before the committee.
- The draft policy consultation held in 2024 had proposed that anyone who had complied with the 2021 policy to have a WAV could license a saloon vehicle as long as the WAV remained on the fleet. However, this led to a potential issue with WAV licences expiring if not renewed. The policy consultation currently being carried out has removed this reference to the 2021 licence holders and the report brought to this meeting aims to resolve the issue as soon as possible.
- Replacement vehicles would be like-for-like in terms of body but have no requirements regarding emissions. However, the new policy proposes a cut-off date of 2030 for carbon neutral vehicles, so drivers would need to be mindful of this date if purchasing a Euro 6 vehicle.
- WAVs can remain on the fleet either through sale to another driver or through a driver licensing a second vehicle. However, as plates are only issued for 12 months these can then expire.

The Chair explained that criticism from the hackney carriage trade to the changed policy requirements in 2021 had led the council to revert to the previous requirements. This had negatively impacted drivers who had abided with the new requirements before they were withdrawn. The report offered an opportunity to rectify what had happened.

Ten drivers attended the meeting and were given the opportunity to voice their experience and concerns to the committee. They raised the following points:

- Some are interested in investing in electric saloon vehicles as replacements for their WAV.
- Some have found WAVs difficult to drive and uncomfortable, with one driver reporting he was experiencing back problems.

- Where medical exemptions exist drivers are not required to take wheelchair users despite running WAVs. It would make more sense for a driver who can offer services to wheelchair users to have this WAV.
- One would like to maintain his WAV alongside an additional vehicle to enable him to provide wider services, such as airport runs.
- It was a very difficult time during the pandemic and they were forced into buying a WAV with very short notice at a time when the market cost for WAVs was very high, as otherwise they would have lost their licence.
- Complying with the policy has left them in difficulties especially as maintenance costs are very high for WAVs. One driver had spent over £6k on maintenance costs in the last year.
- Due to the height of the WAVs it has proved difficult for the elderly to use the vehicles.
- Prior to purchasing the WAV a driver had a lot of 6-seater business which he has since not been able to take as the vehicle can only carry 4 people. Airport work has also been largely lost and regular customers have changed drivers as they don't like the vehicle. The impacted drivers have been left at a disadvantage compared to drivers who did not comply with the policy.
- There has been very little wheelchair work to replace this lost trade, with one driver having only 4 requests from wheelchair users since 2021. A driver suggested that wheelchair users may primarily be using private hire vehicles instead.
- Replacing working vehicles to comply with the policy meant significant and unnecessary financial loss which was worsened through the loss of work, which they feel the council should compensate.
- Drivers raised concerns with the council that this policy was unfair before it was originally implemented.
- They believe they should be able to sell the WAV outside of the fleet to enable them to use the WAV as a deposit. One driver did have another party interested in purchasing their WAV but another had been advertising on the taxi-forum for some time with no interest shown, so even though permission had been previously granted to revert he has been unable to purchase a saloon vehicle.

In response to the drivers' questions, officers confirmed that:

- For carbon neutral vehicles there is no upper age limit for registration as long as requirements such as MOTs are complied with.
- If approved the report will allow drivers to revert to saloon vehicles and will permit drivers to sell WAVs over 5 years of age, as long as they are under 14 years of age.
- Saloon vehicles will need to be under 5 years of age to secure a licence.

Members made the following comments:

- Difficulties previously brought to the committee by a driver about the mile-range of his electric vehicle should no longer be a concern as the range has extended and prices have come down significantly. Gloucestershire County Council and Cheltenham Borough Council are both working on increasing access to electric vehicle charging points. There will also be financial benefits to drivers as electric vehicles accrue less maintenance costs.

- Members recognised that the disadvantages the drivers have experienced were an injustice, which is being compounded by the need to keep WAVs within the fleet. They asked for consideration to be given to removing this requirement during the current policy consultation.
- They thanked drivers for the support they have provided to disabled residents and confirmed that it was proposed that 30% of the fleet would continue to be WAVs. They also noted that a survey conducted on the behalf of the Cabinet Member Economic Development, Wellbeing & Culture had shown that not all customers with disabilities want a WAV. In line with the council's Public Sector Equality Duty a mixed fleet will be offered with any new drivers being required to have a WAV.
- No more drivers should need to come before the committee on this matter.
- Due to the number of policies and consultations that have been taking place the committee have shown leniency to drivers in the past due to the ambiguity of the situation. It would be the right thing to show the same leniency to the drivers who have been trapped in this situation.
- It was an error to have introduced the policy with a forced cut-off date for the disposal of perfectly good vehicles, the council must ensure in the future that vehicles continue to be licensed until their natural end of life.
- The way this policy was introduced has damaged the relationship between the council and the hackney carriage trade in Cheltenham and it is important that the council do what they can to rebuild trust and confidence.
- The committee do not have the power to compensate the drivers but their statements will have been heard by those who are able to consider this decision.

The matter then went to the vote to:

a) Permit the hackney carriage vehicle licences to be transferred to a saloon type vehicle in line with policy requirements for replacement saloon vehicles; and

b) If the hackney carriage vehicle licence holder chooses to, to permit the WAV to remain on the fleet if it exceeds age requirements for new hackney carriage vehicles in line with upper age restriction policy requirements.

For – 9

Abstain – 1

Permitted.

The Chair apologised to the drivers for the inconvenience and difficulty this situation has caused them. He thanked them for taking the time to come to speak to the committee and confirmed that officers would be in touch to confirm the next steps.

7 Review of Hackney Carriage Byelaws

The Licensing and Public Protection Manager introduced the report as published.

In response to Members' questions, officers confirmed that:

- Hackney carriage driver licences are not able to attach conditions by law, drivers are required to comply with the conditions set within the model byelaws. In addition the licensing policy, guidance and conditions outlines application requirements for vehicles and drivers, including DBS checks and safeguarding training, and any other requirements that drivers need to comply with.
- The byelaws are not provided in other languages, but translation services are available if drivers have issues with the technical legislative language. All drivers pass an English language test as part of their licence requirements.

The matter then went to the vote and the committee RESOLVED unanimously that the attached model byelaws be approved for the purpose of consultation.

8 Review of Licensing policy, guidance and conditions for private hire and taxis

The Licensing and Public Protection Manager introduced the report as published. She confirmed that a 6-week consultation began on the 3 March 2025.

In response to Members' questions, officers confirmed that:

- Given the declaration of a climate crisis a carbon neutral fleet date of 2030 has been recommended. Any vehicle licences issued by 1 November 2029 will be allowed to continue until the 31 October 2030, but then will need to be carbon neutral on their renewal date. The committee noted that it was an important environmental consideration that cars are not scrapped unnecessarily before the end of their natural life. All licensing authorities within Gloucestershire have declared a carbon emergency, officers have reached out to these authorities on how they will be managing this situation but due to the local government reorganisation they are currently not reviewing their policies in relation to carbon neutral delivery.
- The language used in relation to English qualifications is generic wording as part of the Gloucestershire Common Standards shared with the other 5 local authorities. This would need to be reviewed with the Gloucestershire County Group. The qualifications listed are only examples of qualifications that are accepted. The team test the basic level of English understanding required to have a conversation within a licensed vehicle, for example, to understand road signs or spot safeguarding concerns. If a person does not have these qualifications they have the opportunity within Gloucestershire to undertake a language proficiency test with an officer. If this is failed they will be referred to an officer for a conversation assessment, and if concerns remain they are referred to the committee.
- Consultation has been carried out with the air quality team and environmental health team regarding carbon neutral vehicle requirements.
- The fare card sets the price structure for charging and is determined by a Cabinet Member decision following a legislative process unique to CBC, which includes consultation with the trade about what they would like to see, consideration of the rate of inflation and a 28-day public consultation.

- It will be a requirement that drivers notify passengers that they have CCTV in their vehicle to comply with the Information Commissioner's Office and they will be required to notify the local authority of its presence, but they will not be mandated to have CCTV. This is being looked at but will require a significant amount of work.
- The proposed change of operator returns from quarterly to monthly are to provide the council with more up-to-date information of where vehicles and drivers are working.

The committee confirmed that the following feedback should be provided as part of the consultation:

- That the policy should ensure that vehicles are not scrapped unnecessarily before the end of their life.
- The policy should specify what is considered better than Euro 6 in relation to carbon emissions, environment and health.
- Ancillary policies, such as whistleblowing and data sharing, should be included within the body of the main policy.
- Consideration should be given to alternative acceptable qualifications that are less specific to England, for example the inclusion within the policy of the Council of Europe's Common European Regulatory Framework for language proficiency.
- It is important to ensure that the policy is written in an easily understandable format, especially as it is not within the council's power to change the language within the byelaws issued by the Secretary of State. A question could be submitted to Cheltenham's MP on ensuring the language used within the byelaws are written in plain English.
- Information should be displayed in plain English on how customers can raise both complaints and compliments.
- It should be made clear that only Visa and Mastercard will be required due to the unfairness on the trade of the high Amex fees.
- Consideration should be given to including an explanation of how fares are determined, why they are set at certain levels and what process is followed.

The committee:

- **Noted the proposed revisions to the authority's adopted licensing policy, guidance and conditions for private hire and taxis; and**
- **Provided formal recommendations and responses to the Cabinet Member of Safety & Communities in relation to the proposed revisions of the licensing policy.**

9 Review of Sexual Entertainment Licensing Policy

The Licensing and Public Protection Manager introduced the report as published.

The committee provided the following feedback to the Cabinet Member of Safety & Communities on the draft policy:

- The committee thanked the Head of Public Protection and the Cabinet Member for the work carried out on a very strong policy. They also thanked

everyone who has already engaged in the original consultation and encouraged people to comment on the draft policy.

- They highlighted the importance of keeping the document relevant, robust and up-to-date to promote the highest possible standards.
- Members agreed that it remained preferable to licence and regulate sexual entertainment venues as this provided the best opportunity for safeguarding everybody involved.
- The nil limit outside the town centre provided a clear steer on where venues are likely to be tolerable.
- It was recommended that the limit of 2 venues should be removed and that the market should be left to decide how many venues can be supported, particularly given the possibility that the limit may push venues to open under the infrequent use exemption rules instead of as licensed venues. It was suggested that the Cabinet Member could consider introducing a rate of change to the policy to add a limit of 2 additional venues each year, although it was noted that this might be a challenging inclusion as it could reduce the flexibility of the committee's decision making powers.
- The proposed extension to the designated permitted area makes sense following the decision to license Under the Prom.
- The suggested wording amendments were felt to have positively improved the clarity of the conditions and reduce the likelihood of technical breaches.
- It was also highlighted that the specificity of the changes to section 25 was positive as it means protections for performers have been enshrined within the policy and reflects feedback received in the original consultation. It will reduce some of the negative working conditions that the committee have seen in the past.
- Need to list what policies are included in terms of discretionary grounds.
- The work carried out on the Public Sector Equality Duty and Equality Assessments is really important to consider how this policy impacts people with protected characteristics. The Chair thanked Leo Charalambides, the editor of the Journal of Licensing, for the work he has carried out in this area.
- It should be considered how the pledge that the council will tackle violence against women and girls could be added to the policy within the legal framework it operates within.
- It was suggested that those people working for the applicant in the public realm should be required to carry out bystander training on a 3-year basis to ensure they are trained at a proportionate level.
- They welcome the integrated approach to safety as those working within the SEV industry experience unique vulnerabilities often alongside specific profiles, for example the LGBT+ community can be disproportionately impacted. These groups don't necessarily have a high standard of social mobility or education available to them, so this industry can be a useful source of work but it is important that the council seek to regulate this to a higher extent. It is valuable to link together the different work the council is doing to ensure it is as inclusive as possible so it was suggested the policy should be integrated further with the safeguarding and social standards.

Councillor Harvey thanked Councillor Willingham for the sensitive way he has chaired this topic during his tenure and highlighted his exemplary background knowledge. He highlighted that the committee have listened to all viewpoints with an

open mind within the primary legislation, which falls outside the control of the council. In the past this has led to Members being threatened and abused. The committee take the concerns and safety of women seriously and have written to both the Conservative and Labour government, and have tried engaging with the Local Government Association and Institute of Licensing to highlight the concerns that have been raised with them. Members confirmed the importance of polite discourse and active engagement and encouraged people to read and comment on the policy during the consultation.

The committee:

- **Noted the proposed revisions to the authority's adopted licensing policy for Sexual Entertainment licensing policy; and**
- **Provided formal recommendations and responses to the Cabinet Member of Safety & Communities in relation to the proposed revisions of the licensing policy.**

10 Review of previous decisions

The Licensing and Public Protection Manager confirmed that:

- There are currently two driver appeals. One has been withdrawn. The other has been scheduled for a hearing in July based on a revocation in December.
- The Koloshi restaurant revocation in 2023 has also been appealed and is awaiting further instructions, which may include a change in ownership. Further updates will be provided at the next meeting.

11 Any other items the Chairman determines urgent and requires a decision

The Licensing and Public Protection Manager explained that a street trading application had been received for Mr Cambray's Curiosity on Cambray Place. The consultation period had concluded the previous week and as there was not sufficient time to schedule a licensing committee to determine the application it has been agreed with the Chair that it should be reviewed as urgent business. There are three outstanding objections which have been provided to the committee. The main concerns raised relate to noise and the potential to cause distress to the clients of a nearby psychotherapy centre. The street trading consent is for 8am – 5am over the duration of the March festival with a marquee erected outside of the premises. Environmental Health have been consulted and raised no concerns. The Licensing and Public Protection Manager outlined the possible outcomes available for the committee to decide between. Another application for a marquee on Cambray Place by Taylor's Eating House received no objections and has been granted.

In response to Members' questions, officers confirmed that:

- The hours applied for are 8am until 5am, to offer hot food and drinks in the morning and tie into the temporary sexual entertainment venue licence that will be operating from 6pm to 5am. The sale of alcohol will run from 6pm to 5am.
- Smoking and vaping will be outside the marquee in line with the Public Health Act. The venue plans do show an exterior area to the rear of the premises

which may provide a smoking location, this would need to be checked with the operator. It is possible for the committee to condition consent with restrictions in relation to a smoking location and access and egress to the marquee. The Chair noted that conditions will need to be practicable given how busy race week is, for example, it may not be possible to prevent people leaving with takeaway food.

- The sexual entertainment venue (SEV) has a plan that is entirely inside the venue so should be separated from the marquee and performers should not come into the marquee.
- The licensing team will be working throughout race week and will be inspecting sexual entertainment venues to ensure they are compliant.
- The operator has confirmed that there will be door staff on the marquee and on the SEV entrance throughout the event.
- The counselling service is next door to the premises. There is a pavement licence in place for Mr Cambray's Curiosity throughout the year, so even without a marquee in operation people would still be able to sit outside and drink.

Members made the following comments:

- The lack of objections to a similar marquee on the same street suggests that the objections are due to who the applicant is rather than material grounds, which is not a licensing consideration.
- Due to the nature of race week there is likely to be activity at breakfast time and then activity again after 6pm when the SEV is in operation. Attendees returning to town may be disruptive but it will be difficult to establish which venue is responsible for their behaviour, which makes it difficult to single out an individual premises and deny their licence on that basis.
- Environmental Health have raised no objection based on noise. Refusing the application due to noise concerns could be seen as an unreasonable decision as it has not been supported by the council's own experts.
- The marquee may provide a benefit by encouraging people to stay within one environment rather than spreading further into the street.
- If taken as a Chair's decision he confirmed he would have been happy to grant permission with the conditions within the application. He felt it was important that the decision was made in as transparent a way as possible. Members agreed with this conclusion.

The matter then went to the vote and the committee RESOLVED unanimously to grant the application as applied for.

12 Date of next meeting

The next Full Licensing meeting will be on the 4 June 2025.

A meeting of the Alcohol and Gambling Sub-Committee scheduled for the 19 March 2025 is in the process of being re-scheduled and an additional meeting has been provisionally scheduled for the 25 March.