

MEETING:	COUNCIL
DATE:	4 MARCH 2011
TITLE OF REPORT:	ANNUAL REPORT OF THE REGULATORY COMMITTEE 2010 - 2011
MEMBERSHIP:	JW HOPE MBE (CHAIRMAN), PGH CUTTER, CM BARTRUM, SPA DANIELS, JHR GOODWIN, RC HUNT, P JONES CBE, PJ MCCAULL, GS POWELL, A SELDON AND JD WOODWARD.

CLASSIFICATION: Open.

Wards Affected

County-wide

Purpose

To note the main activities of the Committee during the period June 2010 – February 2011.

HIGHWAYS ACT 1980 SECTIONS 118 & 119 – PUBLIC FOOTPATH DIVERSION ORDERS

1. The Committee has granted 14 applications for Public Path Diversion Orders for which there has been agreement with interested parties, user groups, the local parish councils and the local Ward Councillors.

REVIEW OF THE LICENSING POLICY AND CUMULATIVE IMPACT POLICY - LICENSING ACT 2003

- 2 The Committee has undertaken a comprehensive review of the Licensing Policy, and the Cumulative Impact Policy for the Commercial Road area of Hereford. The policies were introduced in early 2005 under the provisions of the Licensing Act 2003 and relate to the control of public entertainment, alcohol sales and consumption, and the prevention of associated anti-social behaviour in designated areas. There is a requirement under the legislation for the Council to review the policies every three years. Section 4 of the Licensing Act requires Local Licensing Authorities to promote the following objectives within their policies:-
 - a) the prevention of crime and disorder;
 - b) public safety;
 - c) the prevention of public nuisance
 - d) the protection of children from harm.

- 3 Part 3 of the functions Scheme of the Constitution adopted by Council in November 2010 stipulates that the policies should be approved by Council. The Committee is in favour of the Licensing Policy and the cumulative Impact Policy being adopted but notes that a further review might be necessary during forthcoming months due to pending changes to the legislation regarding licensed premises.

RECOMMENDED TO COUNCIL THAT:

the Licensing Policy and the Cumulative Impact Policy, Licensing Act 2003, as submitted to the Regulatory Committee at its meeting on 1st February 2011 be adopted, subject to any subsequent review which may be required.

ADOPTION OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISC PROVISIONS) ACT 1982

4. The Committee has considered matters regarding the adoption of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and the amendments created by Section 27 of the Policing and Crime Act 2009. The legislation empowers local authorities to licence “sex establishments” and the introduction of the amendment under the Policing and Crime Act also includes ‘sexual entertainment venues”. This new category covers venues that provide entertainment which is defined as “*any live performance or display of nudity which is of such a nature that, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience*”. Under the legislation, local authorities are allowed to set a limit on the number of such establishments they consider appropriate for a particular locality. It also requires that Council be responsible for adopting Schedule 3 and the Committee commends that it be adopted to enable the regulation of such establishments in Herefordshire

RECOMMENDED TO COUNCIL THAT:

Schedule 3 and the amendments of Section 27 to the Local Government (Miscellaneous Provisions Act 1982) which gives power to regulate lap dancing clubs and similar venues be adopted by the Council.

EVENING VISIT TO TOWN CENTRE VENUES IN HEREFORD BY MEMBERS, OFFICERS AND POLICE

5. In the early summer, Members of the Committee were been escorted throughout the city centre by the Police in order to monitor issues dealt with by them in respect of licensing matters.

2 % UPLIFT ON THE TAXI LICENCE FEES AND CHARGES - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

6. The Committee has approved a 2% increase on taxi licence fees and charges for the current financial year. The fees had not been increased since April 2007 and the uplift was part of an overall requirement by the Council that fees and charges should be reviewed. The increase was in line with Central Government and Audit Commission guidance at the time and also part of the Council’s charging policy which was being developed for its services. The Committee noted that the increase might need subsequent revision to ensure full cost accounting and cost recovery and the Officers will be undertaking a more detailed review of this matter.
7. A request was subsequently received from the hackney carriage/private hire trade for a reduction in the licence fee for hackney carriage and private hire vehicles. A new supplier for the on-vehicle licence plates had been found who could provide them at a

more competitive price and also met the latest safety requirements. The Committee agreed to a pro-rata decrease in the vehicle licence fee in the sum of £23 to reflect the cost of a new plate.

APPLICATION TO REGISTER LAND AT ARGYLL RISE, BELMONT, HEREFORD AS A TOWN GREEN

8. An application from a local residents group to register land at Argyll Rise Belmont as a Town Green has been considered. The land is part of a larger area which had been purchased for housing purposes in 1959 by the former Hereford City Council under the powers of the Housing Act 1957 and was subsequently laid out as open space as part of the surrounding housing development during the 1970s. In November 2002 the land was one of a number of open spaces included in a transfer of the Council's housing stock to Herefordshire Housing Ltd.
9. The application was to determine whether the land had been used as open space 'as of right', in which case it could be registered as a Town Green and prevented from being developed for housing. The Committee received a detailed presentation by the applicants and the Housing Association, and was advised by a QC. Having considered the matter in some considerable detail, the Committee felt that on the balance of probabilities from the evidence provided, it could not be determined that the open space had been enjoyed 'as of right' and accordingly, the application was rejected.

CHANGES TO THE CONSTITUTION FOR REGULATORY COMMITTEE

10. At its meeting on 19th November, 2010 Council had approved changes to the Constitution and these came into effect from 1st February, following consultation with key stakeholders. This involved the Committee and officers from the legal team together with those concerned with safeguarding, licensing and footpath diversions. Another part of the process was the creation officer review panel to deal with certain taxi licensing matters. Applications for taxi driver licences and school contract drivers were subject to different legislation. The officer panel would help the Council to fulfil its safeguarding responsibilities by introducing consistency in between the two service areas regarding the granting of driver licences.
11. The Committee has decided that the Regulatory Sub-Committee, in addition to its existing duties, will hear appeals arising from the refusal of taxi driver applications and officer panel recommendations for the revocation of existing licences. The Sub-Committee will also deal with footpath/bridleway diversion applications with major issues to be resolved. The Committee feel that the changes will give greater flexibility to it by removing the need to deal with relatively routine matters and free it up for the more strategic matters, policy issues and the performance of those departments which are involved with regulatory matters.

REVIEW OF THREE YEAR ROLLING PROGRAMME FOR DUAL HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES

12. Investigation has been made into problems arising from a number of drivers who had failed to renew their driver's licences; or provide the necessary evidence of a CRB check; or medical renewal when necessary. The three-year rolling programme for dual hackney carriage/private hire driver's licences was introduced in April, 2007 and includes a requirement that drivers needed to provide an annual self-declaration regarding the status of their medical and their CRB. The Council's budgeting arrangements also required drivers to pay an annual fee, rather than a single payment to cover each three-year period. The Committee decided that the rolling programme

should continue for the time being but that those drivers who fail to make the necessary payment or provide the required information within a prescribed timescale should be given an automatic suspension.

APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

13. Applications for the reinstatement, renewal or grant of Hackney Carriage/Private Hire driver's licences have been referred to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions and medical requirements. Incidents involving the conduct of drivers have also been heard. Applications for the renewal or transfer of vehicle licenses have also been submitted to the Committee in cases where applicants were late with their applications and were in breach of the Council's licensing conditions, or they wished to transfer a licence to a vehicle that does not comply with those conditions.
14. The applicants, licence holders and their representatives gave details of the grounds for their applications and provided the Committee with their personal circumstances. In the case of the applications for vehicle licences, the applicants explained the circumstances which had prevented them from renewing their licences within the Council's prescribed timescale or why they wanted to transfer their licenses.
15. The applications were dealt with as follows:
 - a. two applicants were allowed to renew their vehicle licences outside the prescribed timeframe because of particular problems they had encountered or the Committee felt that the timeframe between expiry and the application for renewal was small enough to be acceptable;
 - b. an application for a 'Tuk Tuk' (a motorcycle powered rickshaw) was approved to operate in certain areas of Hereford City because it will assist with the promotion of tourism;
 - c. eleven applications for the grant or reinstatement of drivers licenses were permitted because the Committee is satisfied that evidence has been given by the applicants, licence holders and officers that they are fit and proper persons to be licensed;
 - d. eight applications for drivers licenses were refused because the Committee is not satisfied that evidence has been given by the applicants that they are fit and proper persons to be licensed;
 - e. two drivers licences were been revoked because of incidents which no longer rendered them fit and proper persons to be licensed; and
 - f. two drivers licences which had been suspended were reinstated because they had provided evidence which satisfied the Committee that they were fit and proper persons.

**JW HOPE MBE
CHAIRMAN, REGULATORY COMMITTEE**

BACKGROUND PAPERS

Agenda papers from meetings of the Committee held between June 2010 & February 2011.