

<b>MEETING</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>8 MARCH 2013</b>
<b>TITLE OF REPORT:</b>	<b>ANNUAL REPORT OF THE REGULATORY COMMITTEE</b>
<b>REPORT BY:</b>	<b>REGULATORY COMMITTEE</b>
<b>MEMBERSHIP:</b>	<b>JW HOPE MBE (CHAIRMAN), RC HUNT (VICE-CHAIRMAN), CM BARTRUM, PL BETTINGTON, BA DURKIN, BRIG. P JONES CBE, PJ MCCAULL, C NICHOLLS, FM NORMAN, GA POWELL.</b>

### **1. Classification**

Open

### **2. Key Decision**

This is not an executive decision

### **3. Wards Affected**

County-wide

### **4. Purpose**

To inform Council of the work undertaken by the Regulatory Committee and Regulatory Sub-Committee from May 2012 to February 2013.

### **5. Recommendation**

**THAT:**

- (a) The report be noted.**

### **6. Key Points Summary**

- The Council's Constitution requires that annual reports are received from committees to Council (Constitution, Part 4 - Procedure Rules, paragraph 4.1.6.3 m refers).
- This report summarises the work of the Regulatory Committee and the Regulatory Sub-Committee since the last annual report was received at the Annual Meeting of Council on 25 May 2012.

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Further information on the subject of this report is available from Ricky Clarke, Democratic Services Officer on Tel: (01432) 261885

## **7. Alternative Options**

- 7.1 There are no Alternative Options as the report is for information purposes only.

## **8. Reasons for Recommendations**

- 8.1 To comply with the requirements of the Council's constitution.

## **9. Introduction and Background**

- 9.1 For the last municipal year Councillor JW Hope MBE was elected as Chairman of the Committee with Councillor RC Hunt being appointed as Vice-Chairman.
- 9.2 The Regulatory Committee has met on four occasions between 22 May 2012 and 15 January 2013.
- 9.3 The Regulatory Sub-Committee has held 17 meetings between 11 June 2012 and 26 February 2013. These meetings have been convened on an ad-hoc basis to meet with application deadlines as set out in the Licensing Act 2003.

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

- 9.4 The Sub-Committee has granted 13 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.
- 9.5 The 2010 constitutional changes were aimed at delegating more day to day functions to officers, however the changes were not clear in respect of the rights of way functions. Therefore certain functions such as the authorisation to make diversion orders under section 119 have remained with the Regulatory Sub-Committee.
- 9.6 Currently, most notices and orders are authorised and signed by officers. However the constitutional changes in January 2010 did not set out the level at which those decisions should be delegated to, nor did it clarify all the functions that should move from the Regulatory Committee to officers. Legal and Committee services have now clarified the situation and are of the view that all decision making regarding public rights of way should rest with delegated officers. Therefore it is considered appropriate that Rights of Way decisions should be made by suitably delegated officers.

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

- 9.7 In April 2012 the Regulatory Committee considered a report regarding an uplift of taxi fees in order to move towards full cost recovery in line with Council policy. The report was deferred for further discussions with the trade and further research. In May 2012 the Regulatory Committee agreed to the revised taxi fees subject to a review after 9 months to ensure that the fees were appropriate. This review was undertaken in January 2013 where the Committee were advised that there would be a shortfall of approximately £9500 in the current financial year due to the late implementation of the revised fees as well as a reduction in taxi drivers throughout the County. It was however noted that the service should operate on a full cost recovery basis from 2013-2014.

- 9.8 In December 2012 the Regulatory Committee considered an application for a 7% increase to the Hackney Carriage fares which had been received from the Taxi Association and other members of the trade. The Committee considered representations from the trade and decided that a 7% increase was acceptable.
- 9.9 Applications for the reinstatement, renewal or grant of Hackney Carriage/Private Hire driver's licences have been referred to the Regulatory Sub-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 Sub-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.
- 9.10 The applicants, licence holders and their representatives gave details of the grounds for their applications and provided the Sub-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 licences.

The applications were dealt with as follows:

- Three applications to licence vehicles were refused as the vehicles did not comply with the standard vehicle conditions.
- One application to licence a vehicle outside of the standard vehicle conditions was permitted because the Committee were satisfied with the evidence and reasons given by the applicant during the hearing.
- Two drivers' licences which were suspended by the Taxi and County Transport Badge Officer's Panel were reinstated by the Committee as they were satisfied with evidence and reasons given by the appellant during the hearing.
- One driver's licence was suspended for one month because of incidents which had resulted in penalty points being issued to the driver under the Council's Penalty Points Scheme.

### **LICENSING ACT 2003**

- 9.11 The Sub-Committee has also determined applications referred to it in respect of the Licensing Act 2003.

The applications were dealt with as follows:

- Five applications for new premises licences were granted.
- One application to vary an existing premises licence was granted.
- Six applications to review premises licence were considered by the Sub-Committee. Of these, one licence was suspended for a period of three months whilst the other five were addressed through appropriate conditions.
- One application for an expedited review was considered by the Sub-Committee.

- 9.12 The Licensing Act 2003 was amended by the Violent Crime Reduction Act 2006 which
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gave Licensing Authorities new provisions which allowed a quick process for dealing with premises licensed under the Licensing Act 2003 when the police consider that the premises concerned is associated with serious crime or serious disorder or both. The Sub-Committee have determined one such 'expedited review' application in the last year. In July 2012 an application from West Mercia Police for an expedited review was received by the Council after a premises within the city centre was found to be in possession of a large quantity of contraband alcohol. The Premises Licence was suspended within 48 hours of the application being received and was later revoked at a full review hearing once HMRC had confirmed that the alcohol had not been subject to UK duty.

### **GAMBLING ACT 2005**

- 9.13 The Sub-Committee has also determined applications referred to it in respect of the Gambling Act 2005.
- 9.14 The Committee have granted two applications for additional gaming machines at licenced premises in Commercial Road, Hereford and Ledbury Road, Hereford.

### **GUARDIANSHIP UNDER SECTION 7 OF THE MENTAL HEALTH ACT 1983**

- 9.15 Guardianship is a process prescribed by the Mental Health Act 1983 with the purpose of enabling a service user to receive care outside hospital when it can not be provided without the use of compulsory powers. The guardian has three specified powers: the right to decide where the service user should live; to require the service user to attend for treatment, work, training or education at specific times and places; and to require that a specified person has access to the service user at the place where they live.

Therefore, guardianship involves a curtailment of the rights of the service user. An application for guardianship needs to be made by an Approved Mental Health Professional, on the recommendation of two doctors. The application is made to the Local Social Service Authority (LSSA). If the LSSA accepts the application it becomes the Guardian.

In Herefordshire the LSSA is the Council. The LSSA has the power to discharge guardianship at any time, but has a duty to consider discharge when guardianship has been renewed by the responsible clinician. This duty has been delegated to the Regulatory Sub Committee.

The Sub-Committee has received one application for a guardianship request to date. The Sub-Committee decided that the Guardianship order should continue.

## **10. Background Papers**

- 10.1 None identified.