



TAXI AND GENERAL COMMITTEE – 25TH OCTOBER 2018

SUBJECT: REVIEW OF SUB COMMITTEE HEARING PROCEDURES, REPORT FORMATS AND MEETING TIMES

REPORT BY: INTERIM CORPORATE DIRECTOR OF COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 That the Taxi and General Committee consider the proposals set out in the report with a view to amending the procedure and format of the reports relevant to Taxi and General Sub Committee Hearings.

2. SUMMARY

- 2.1 A review has been undertaken of Committee Hearing Procedures in respect both of Taxi & General and Licensing & Gambling Sub Committees which identified a number of minor amendments were required to the procedures. Officers have also noted the comments of Members attending internal training sessions earlier in the year and advice provided by a lead licensing practitioner. As a result, the report proposes a number of amendments for consideration by this Committee.

3. LINKS TO STRATEGY

- 3.1 The review of committee procedures / format of reports contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:
- A prosperous Wales
 - A resilient Wales
 - A more equal Wales
 - A Wales of cohesive communities.

4. THE REPORT

- 4.1 Good practice dictates that Officers undertake a regular review of procedures including those concerning Licensing Committee Hearings. As a result of this review, Officers have identified that a number of minor amendments were required to reflect what actually happens in practice and to bring the procedures up to date with current guidance and best practice. For example, one of the procedures had indicated that the legal officer would commence proceedings whereas this was the responsibility of the Chairman.
- 4.2 At a training session provided to Members of the Taxi & General Committee on the 31st May 2018, members raised a number of issues relating to the existing Committee process / format. These included:-

- The attendance of the legal advisor to assist Members during the entire hearing procedure.
- Receiving Taxi & General Sub Committee reports in advance of the hearings to allow time for consideration.
- The scope for the times of meetings to be moved to accommodate Members who are in alternative employment.

4.3 In addition, at a training session organised for Members on the 22nd June 2018, a lead licensing practitioner advised that it was permissible to include officer recommendations in Taxi & General Committee reports where currently no recommendation is made.

It is therefore advocated that future reports to the Taxi and General Sub Committees will include an officer recommendation based on evidence / information in the possession of the Officers at the time of report preparation and in line with current CCBC Policy and relevant guidance. It would only be a recommendation and each case must be considered on its merits. Members may take a different view after considering any additional information or mitigation submitted at the hearing by the applicant. Members who sit on Planning Committee will also be familiar with this approach as such reports contain an Officer recommendation.

In accordance with the rules of natural justice and Human Rights all applicants and parties subject to a review of their licence receive a copy of all information to be considered by Members at Committee Hearings.

4.4 Members views are also sought on trialling a change to the timing of routine Taxi & General Sub Committee meetings to 5pm in order to allow greater Member participation. Meetings which are likely to be contentious or which will involve witness attendance could be commenced at an earlier time. If agreed the position regarding any change to meeting start times would be reviewed after 3 months.

4.5 Members are asked to consider the proposals for change set out in this report and to agree amendments to the Taxi and General Licensing Committee procedure a draft of which is attached as Appendix A.

5. WELL-BEING OF FUTURE GENERATIONS

5.1 This report and associated proposals contributes to the Well-being Goals as set out in Links to Strategy above. They are consistent with the five ways of working as defined within the sustainable development principle in the Act. The Council has a mandatory obligation to licence hackney carriage and private hire drivers, vehicles and private hire operators and to ensure that they comply with all conditions and controls which may have an effect on them or the public. There is an emphasis on prevention as the process ensures that a number of checks and safeguards are in place before licences are granted, refused or revoked. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service. Effective procedures for Sub Committee hearings support this process and increase transparency for all involved.

6. EQUALITIES IMPLICATIONS

6.1 The Council ensures that it treats all individuals and organisations who are applying for or who hold driving licences, with equal respect both when corresponding with those individuals and organisations during any licensing process. Reviewing and updating the hearings procedure will ensure it is fit for purpose, increase transparency and openness for everyone involved and improve consistency of approach and fairness.

7. FINANCIAL IMPLICATIONS

7.1 None.

8. PERSONNEL IMPLICATIONS

8.1 Meetings will be scheduled within the council's flexible working hours. Given the frequency of Hearings, it is not envisaged that there will be any adverse impact upon Officers or indeed provision of the Licensing Service.

9. CONSULTATIONS

9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

10. RECOMMENDATIONS

10.1 Members consider and approve the following proposals

- a) to require attendance of the legal officer throughout the entire Hearing.
- b) to receive Taxi & General Sub Committee reports in advance of the Hearing.
- c) the inclusion of an Officer recommendation in future Taxi & General Sub Committee Reports.
- d) to trial alternative Taxi & General Sub Committee meeting times for a three month period.
- e) to approve the Taxi and General Hearing Procedure attached as Appendix A subject to any decisions in a to d above.

11. REASONS FOR THE RECOMMENDATIONS

11.1 To ensure that procedures and processes for Taxi and General Sub Committee Hearings comply with current legislation, guidance and best practice.

12. STATUTORY POWER

12.1 Local Government (Miscellaneous Provisions) Act 1976.

Author: Lee Morgan, Licensing Manager
Consultees: Cllr Denver Preece Chair, Licensing Committee
Cllr Julian Simmonds, Vice Chair, Licensing Committee
Cllr Eluned Stenner, Cabinet Member for Environment and Public Protection
Mark S. Williams, Interim Corporate Director Communities
Robert Hartshorn, Head of Public Protection, Community and Leisure Services
Robert Tranter, Head of Legal Services and Monitoring Officer
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
Emma Sullivan, Committee Services Officer
Mike Eedy, Finance Manager
James Williams, Senior Solicitor, Legal Services
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)
Shaun Watkins, HR Manager

Appendices:

Appendix A Hearing Procedure Taxi & General Sub Committee

CAERPHILLY COUNTY BOROUGH COUNCIL

TAXI AND GENERAL SUB-COMMITTEE PROCEDURES

This Is a Committee Hearing and Not A Court Of Law

Preliminary Matters

1. Members should consider the agenda items carefully and notify the Committee Clerk immediately of any potential conflict of interest and return any documentation they may have received as soon as possible to the Committee Section.
2. Copies of relevant documentation will be supplied to the Members prior to the hearing.
3. It is in the interests of applicants that any evidence upon which it is intended to rely is made available to the Licensing Authority in advance. If any party seeks to introduce at the hearing any oral or documentary evidence, which has not previously been disclosed, the Committee will give appropriate weight to these items.

Conduct of the Hearing

1. The Chairman of the Committee will start proceedings by introducing the Members and officers present. A final check will then be made to ensure none of the Members have any conflict of interest with any applicant, other relevant person, or supporting witness.
2. The Legal Advisor will then outline the procedure that will be followed at the Committee.
3. If any other persons are in attendance which the applicant wishes to address the committee to represent them they will require the consent of the Committee to speak.
4. The Applicant and/or his representative/accompanying persons may then address the Committee. The applicant and /or the representative/accompanying person may be questioned by the committee and any other parties present.
5. All parties will be given the opportunity to sum up before the committee retires to make its decision. It is usual for the applicant/subject of the hearing to have the last word.
6. Applicant/subject of the hearing, accompanying persons and Licensing officer will not be present whilst the committee makes its determination. All parties are expected to remain within the confines of the building to await the result of the committee's determination.
7. Members may require an adjournment at any time during the course of the proceedings to consider points of law, policy, etc

Evidence

1. Hearsay evidence is allowed, although the weight the Committee attaches to such evidence may be less, given that it cannot be tested in cross examination.
2. Every application will be considered on its own merits.

Determination of the Application

1. The Members will retire to make their decision. The Legal Advisor will accompany Members and advise them on points of law , policy and procedure that may arise during their deliberations The Legal Advisor will then explain the substance and nature of advice that has been provided to all parties.
2. If once in private, Members need clarification they may return to open session to obtain information, then re-resolve to return into private session.
3. The parties will generally be notified of the Members' decision at the conclusion of their deliberations and advised of the rights of appeal.

Legal Advisor

The Committee will rely on its legal adviser as to matters of law and procedure.

This may include, but is not limited to:-

1. Any relevant legislation, guidance or Council Policies.
2. Admissibility of evidence.
3. The rules of procedure arising because of general principles of administrative law.