

LICENSING COMMITTEE

- * Councillor Catherine Young (Chairperson)
- * Councillor Keith Witham (Vice-Chairperson)

- | | |
|--------------------------------|------------------------------------|
| * Councillor Bilal Akhtar | * The Mayor, Councillor Masuk Miah |
| Councillor Amanda Creese | * Councillor Patrick Oven |
| Councillor Gillian Harwood | * Councillor David Shaw |
| * Councillor Catherine Houston | Councillor Katie Steel |
| * Councillor Bob Hughes | * Councillor Jane Tyson |
| * Councillor Tom Hunt | Councillor Dominique Williams |
| Councillor Sandy Lowry | |

*Present

L1 APOLOGIES FOR ABSENCE

Apologies for absence were received from the following councillors; Councillor Amanda Creese, Gillian Harwood, Sandy Lowry, Katie Steel and Dominique Williams.

L2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

There were no disclosures of interest.

L3 MINUTES

The minutes of the Licensing Committee held on 26 July 2023 were agreed by the Committee and signed by the Chairperson as an accurate record.

L4 ANIMAL LICENSING POLICY

The Committee received a report from the Senior Specialist, Licensing and Community Safety, Mike Smith. In November 2022, the Licensing Committee approved a draft policy concerning the councillors' responsibilities in respect of animal activity licensing. A number of changes were implemented to the way in which animal activities were regulated. A licence from the local authority was required if you are breeding dogs, boarding dogs or cats, hiring out horses, operating a pet shop or having animals perform for an exhibition. Following the legislative changes in 2018, the Council adopted a policy in 2019 in respect of the licensing activities involving animals, which provided a consistent framework and set out how the Council aimed to discharge its duties. The policy was then reviewed after 5 years in November 2022 and the Committee approved a draft

policy for public consultation. The main changes to the policy were that the criteria had been updated which allowed the Council to achieve the RSPCA Gold Paw Print for Animal Licensing. Interested parties were written to as part of the consultation phase such as the police, DEFRA and DEFRA licence holders. Only one response was received following the consultation from the Kennel Club. The Kennel Club raised concerns about the updated guidance in the Council's Policy on the business test, specifically that 'hobby breeders' should not be considered as requiring a licence for the activity of dog breeding. Sections 5.8 to 5.11 of the updated Policy discuss the business test and set out that in considering whether an activity is considered a 'business' the Guidance recommends that Councils should consider the HMRC 9 badges of trade. In response to the concerns raised by the Kennel Club, officers would advise that the Council must consider the legislation, guidance and its own policy when considering whether a licence is required. Each case would be looked into on its merits, with the intention of ensuring that those who need a licence hold one for the purposes of upholding animal welfare standards.

The Committee noted a query regarding clarification of the legislation. For example, someone who was selling cats and dogs had to be licenced. However, what was the difference between somebody who is carrying on a business of breeding and then selling cats and dogs and a private individual whose dog or cat has a litter and then sells them or exchanges them for money. At what point did it become a business that needed to be licensed?

The Senior Specialist, Licensing and Community Safety, Mike Smith confirmed that if you were operating a business of breeding dogs or had three or more litters per year then you were required to be licenced. There was no specific legislation covering the breeding of cats. However, if you were selling animals as pets, which could include kittens then you may need a licence such as a pet shop.

The Committee noted a query raised regarding the concerns raised by the Kennel Club in that they were questioning why they must consider the legislation, guidance and policies which seemed fairly obvious. The Senior Specialist, Licensing and Community Safety, Mike Smith confirmed that the Kennel Club believed that hobby breeders should not fall within the category of requiring a licence for dog breeding. However, licensing would assess hobby breeders on a case by case basis.

The Committee also queried why the Licensing Authority would not adopt DEFRA standards in relation to dangerous wild animals and zoos. The Senior Specialist, Licensing and Community Safety, Mike Smith confirmed that Guildford did not

have any dangerous wild animals licenced in Guildford nor zoo licences. If an application for zoo licence was received then there was a requirement to appoint a veterinary inspector and standard conditions would be imposed.

The Committee noted a query regarding the checking of licences and whether any data was available about the number of licences that were in breach of their conditions or had been terminated. The Senior Specialist, Licensing and Community Safety, Mike Smith confirmed that a premises was inspected as part of the application process to ensure that they meet the criteria and how well they met the criteria determined the star rating. If a 5 star rating was given then the premises would receive a 3 year licence. That premises would also need to have an interim inspection before they needed to apply again. In respect of whether businesses were compliant, generally speaking, most of them were pretty good and was not aware of any revoked licences. If complaints were received about a premises, then the Council had the powers to revoke a licence if failings were identified.

The Committee asked if the new legislation had caused an increase in the number of licenced establishments and a corresponding demand upon officer time? The Senior Specialist, Licensing and Community Safety, Mike Smith confirmed that prior to 2018 licenced inspections were undertaken by a dog warden council officer. However, since the new legislation was introduced the Council had contracted out the stray dog service and the dog warden council officer was involved in other aspects of the licensing authorities work.

The Committee noted that the government did not issue draft model animal welfare policies but that rather it was down to each licensing authority to pull together.

The Committee approved the updated Animal Welfare Licensing Policy following the 12-week public consultation.

L5 EXTENSION TO PAVEMENT LICENSING

The Committee received a report from the Senior Specialist – Licensing and Community Safety, Mike Smith. The Council is responsible for administering the pavement licensing function which originated following the easing of lockdown restrictions after Covid. Owing to social distancing measures in place at the time, the government introduced what was at the time a temporary change to pavement licensing procedures to allow businesses to be able to have chairs and tables placed on the highway. This was previously administered by Surrey County Council as the Highways Authority which has now been passed to the Borough

Council to administer. The issuing of pavement licences has proved very popular and a policy was adopted by the Council to ensure that consistent decision-making was in place. Following the levelling up Bill the government has extended the temporary pavement licensing permissions until September 2024. The Committee was therefore asked to approve the existing policy for a further 12 months.

The Committee noted condition 1 of the national conditions and that it was very important to contain outside seating areas with fixed barriers so that people with buggies, in wheelchairs or with visual impairments could safely navigate around them. The Committee asked how often licenced premises were visited to have their seating arrangements checked. The Senior Specialist – Licensing and Community Safety, Mike Smith confirmed that when businesses applied for a pavement licence, one of the criteria was that they needed to submit a plan as to where the street furniture would be placed. That plan formed a condition of the licence. With regard to A-Boards there was under the Highways Act a duty not to obstruct pavements. The Highways Authority administered this and Surrey Highways Authority can investigate any complaints made. The licensing team did not have the resources to make routine inspections but would look at premises which needed to re-apply for premises licences. It was also confirmed that businesses had to pay an annual fee of £100 for their licence which was capped by legislation.

The Committee noted the extension of the Business and Planning Act for the Licensed Trade, and subject to the passing of the necessary Statutory Instrument, approved the current Pavement Licensing Policy for a further 12 months.

L6 REPRESENTATIVE OF TAXI TRADE

The Committee noted that the Chairperson, Councillor Young had agreed to permit Mr Soper to speak for five minutes on matters of concern in relation to the taxi trade.

The Committee heard concerns raised by Mr Soper that the licensing team was very under resourced. He had left a paper petition signed by the taxi trade to request that the Council stopped administering hackney carriage driver knowledge tests online and brought the testing back in-house. It was the taxi trade's view that by allowing people to sit this element of the test at home online, opened it up to abuse whereby people could get others to sit the test for them. This was having a knock-on effect where drivers who had cheated the examination system in this way did not know where they were driving in

Guildford. This was putting the public's safety at risk. Since this type of examination had been offered, the taxi trade was over-run with drivers.

The Chairperson, Councillor Young noted that the Committee had already discussed this matter at the last meeting held in July 2023 and had carefully considered these issues.

The Senior Specialist for Licensing and Community Safety, Mike Smith confirmed that the knowledge test had prior to Covid been administered by officers in Council Chamber. During Covid, the Council had a statutory duty to deliver the tests and therefore outsourced this functionality. The licensing team do not currently have the resources to bring the testing back in-house. The IP addresses used by people taking the online test had been reviewed and occasionally the same IP address had been identified as having taken the knowledge test. Those people were written too by the licensing team. There was no cap to stop the number of drivers who had qualified and it was also important to note that drivers had to pass a number of other tests before being permitted to become drivers. Mike would however review the system currently in use.

L7 TAXI AND PRIVATE HIRE POLICY - PRIVATE HIRE VEHICLE OPERATOR CONTRACTS

The Committee received a report from Mike Smith, Senior Specialist for Licensing and Community Safety. The Committee noted that following the updates to the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy in 2021 and the consultation upon the Department for Transport's new draft Best Practice Guidance last year, on 28 July 2023 the High Court handed down a ruling following previous litigation between app-based drivers in London and worker's rights which affects the contract arrangements between Private Hire Operators and passengers under the Local Government (Miscellaneous Provisions) Act 1976.

In response to the Uber Britannia Limited v Sefton Metropolitan Borough Council & Others judgement, officers were proposing a minor change to the Council's Licensing Policy which sought to add a condition to all Private Hire Operator Licences to ensure Operators comply with this ruling.

The Committee agreed that the minor change to the Council's Taxi and Private Hire Licensing Policy was introduced under delegated powers. The change was to add a further condition to the Council's standard Private Hire Operator Licence Conditions to ensure compliance with the principle in the ruling.

L8 LICENSING COMMITTEE WORK PROGRAMME

The Committee noted that the item in relation to mobile homes would most likely come forward for consideration at its January 2024 meeting.
The meeting finished at 8.12 pm

Signed

Date

Chairman