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Elmbridge Borough Council

Licensing Committee

Report of a meeting held on Monday, 16 September 2019

Members of the Committee:

- * M. Rollings (Chairman)
- * D.J. Lewis (Vice-Chairman)

	Ms. R. Ahmed	*	B. Fairbank
*	D.J. Archer	*	A. Kelly
*	M. Axton	*	A.H. Kopitko
*	M.J. Bennison		Mrs. J.R. Turner
	A. Coomes	*	R.C.J. Williams
	Mrs. C.J. Cross	*	Mrs. L.A. Yauner

* Denotes attendance

6/19 Declarations of Interest

There were no declarations of interest.

7/19 Minutes of the Meetings held on 15 May and 24 June 2019 (for signing)

The Minutes of the meetings held on 15 May and 24 June 2019 were agreed as correct records and signed by the Chairman.

Recommendations to Council on 2 October 2019

8/19 Taxi and Private Hire Enforcement - Delegations for Surrey Joint Warranting

The Committee considered a report in respect of the introduction of joint warranting arrangements between Surrey Licensing Authorities which would enable an improved enforcement of the taxi and private hire trade across the County and improve the safety with the licensed hackney carriage (taxi) and private hire vehicle service operating in Surrey.

The Committee noted that under powers arising from the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976, Local Authorities could inspect vehicles and take enforcement action against drivers and vehicles licensed by that authority. However, given that there was no geographical restriction on where a licensed vehicle could travel this meant that authorised officers from one authority would regularly come across vehicles licensed by a different authority.

In this regard, officers only had a legal power to inspect and take action against vehicles, if they had been authorised in writing by the authority that licensed the vehicle. Should a defective vehicle, licensed by another local authority, be

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found to be operating in the Elmbridge area, the Council's officers would be unable to take any action. It was therefore considered necessary to introduce a Surrey-wide scheme for joint warranting to enable Licensing Officers from any Surrey Authority to be able to take relevant action against any vehicle licensed in Surrey should the need arise. Such joint working arrangements had been regarded as best practice in the draft Statutory Guidance issued under Section 177 of the Policing and Crime Act 2017 that had recently been consulted upon by the Department for Transport. This joint working would also promote the work undertaken to tackle Child Sexual Exploitation across the County.

The Principal Licensing Officer explained that the taxi and private hire enforcement powers would be delegated to the other Surrey Authorities and it was proposed that similar delegated powers would be reciprocated to the Council. However, it was acknowledged that each Council would retain its ability to grant and renew licences. The Committee noted that each Council would be responsible for ensuring that the officers delegated would be suitably trained and experienced in this area of work.

In addition, the Committee was advised that the Council's Constitution would need to be amended to extend the authorising power to include the officers of the participating Surrey authorities.

A Consultation had been undertaken with the other 11 Surrey Licensing Authorities who were supportive of this initiative and who would be seeking the necessary delegations for the joint warranting scheme to commence.

In answer to a couple of questions relating to whether there was scope for neighbouring Counties to join the joint warranting initiative, the Principal Licensing Officer explained that this would be challenging to achieve initially and that for now the focus was on the Surrey area. Furthermore, given that Kingston, as a neighbouring authority is a London Borough, separate licensing legislation applies and it would be difficult for joint warranting to be established. As the London Authority, however, Transport for London do make themselves available for joint working. This would mean their own officers visiting Elmbridge should significant problems arise. However, there was the possibility that legislation could be revised at some point to enable cross border enforcement which had been identified as good practice.

One Member raised concerns in respect of Uber drivers that had been licensed by other licensing authorities but were able to trade within the Elmbridge area. The Chairman explained that Uber drivers were controlled by Transport for London under separate legislation and had to meet certain requirements in the same way as taxi drivers that were registered by Elmbridge. One Member commented that in his opinion Uber provided an additional layer of protection for passengers by way of sending both the number plate and name of the driver prior to the passenger being picked up and following the journey there was the ability to rate the drive, provide a tip and also make any complaints should they not be satisfied with the service.

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One Member enquired whether the joint warranting initiative would be introduced on a piecemeal basis or whether it would not commence until all of the eleven Surrey authorities had signed up to it. The Principal Licensing Officer explained that three authorities i.e. Woking, Spelthorne and Guildford Borough Council's had already taken reports to their respective Committees and it was hoped that all of the Borough's and District's would follow suit around the same time.

One Member sought clarification on how the enforcement of the joint warranting would be undertaken. The Principal Licensing Officer provided an example in respect of the roadside safety days that were undertaken by the Police in liaison with the Council and other agencies such as Vehicle and Operator Services Agency (VOSA). Should the Police stop a vehicle licensed by a different authority, and an Elmbridge Officer deemed the vehicle to be unsafe or unsound, a stop notice could be issued. This would not currently be undertaken outside of the joint warranting scheme. Furthermore, this initiative was about information sharing e.g. if the authority became aware of vehicles where their plates had been recalled, the Council could demand for these to be handed in.

In response to a question regarding the responsibility and conduct of taxi and private hire drivers licensed by the Council, the Chairman advised the Member to raise their concerns and feedback as part of the current Taxi and Private Hire Licensing Policy consultation.

Recommended: that

- (a) the Council delegate the Taxi and Private Hire enforcement functions to the Surrey local licensing authorities, in addition to retaining those functions within the Borough and to similarly receive the delegated Taxi and Private Hire enforcement functions of those local authorities under the legislation, as set out in Appendix A of the report; and**
- (b) the Strategic Director's existing delegated power set out in Part 3-20 of the Council's Constitution (authorisation of officers to enforce all relevant Hackney Carriage and Private Hire licensing legislation) be extended to include the authorisation of officers of other Surrey authorities participating in a Joint Warranting Scheme.**

9/19 Review of the Council's Gambling Act 2005 Statement of Policy

The Committee considered a report in respect of a review of the Council's Gambling Act 2005 Statement of Policy. The Council adopted its existing policy in 2016 which set out the Council's general approach to carrying out its licensing functions relating to gambling activity. The Policy also states the Council's expectations of applicants and licence holders and aimed to support consistent decision making.

The Principal Licensing Officer explained that the Policy was due to expire on 31 December 2019 and that Officer's had been unable to complete a full review

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before this date. In this regard, and to comply with the duty to publish a policy at least every three years, it was proposed that the Council continue using the existing policy to exercise its licensing functions. A comprehensive review of the policy would be undertaken during 2020 and on conclusion would establish a revised policy for consideration by Members and seek approval for public consultation on the changes.

In respect of the existing Policy, one Member enquired whether the Council had created a Local Area Profile as an aid to discharging its functioning under the Gambling Act. The Principal Licensing Officer explained that this had not been completed but was something that the Council wanted to do and would be undertaken for the next publication of the Policy.

In respect of extending the existing policy, the Committee deemed that this should be for one year only as per the agenda papers and that the Committee should be informed should a further extension of time be required. Furthermore, the Committee requested that it be advised of the reasons why it had not been possible for the Policy to be reviewed should an extension of time be needed i.e. resourcing or staffing issues etc.

Recommended that

- (a) the Council continue to use its existing Gambling Act 2005 Statement of Policy for a further 12 months; and**
- (b) the Gambling Act 2005 Statement of Policy, as attached as Appendix 1 to the report, be adopted and published.**

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The meeting commenced at 7.00 pm and concluded at 7.32 pm

M. Rollings
Chairman

Democratic Services Officer

M. Clarke

Committee and Member Services Officer

Other Officers in attendance

Ms. A. Knights

- Principal Licensing Officer

Ms. A. Krofah

- Law Practice Manager