

Regulatory Committee

10.00am, Monday 1 May 2023

Present

Councillors Ross (Convener), Caldwell, Dalglish, Dixon, Fullerton, Mattos Coelho, Meagher (substituting for Labour Group vacancy), Mowat and Rae.

1. Minutes

Decision

- 1) To approve the minute of the Regulatory Committee of 6 February 2023 as a correct record.
- 2) To approve the minute of the Regulatory Committee of 13 March 2023 as a correct record.

2. Rolling Actions Log

The Rolling Actions Log for May 2023 was presented.

Decision

- 1) To agree to close the following actions:
 - Action 1 Licensing Policy Development – Street Trading Update
 - Action 3 (1&2) – Age Limitation and Emissions Standards for Taxis and Private Hire Cars Update
 - Action 4 – Business Bulletin – Briefing Session on the Low Emissions Zone
 - Action 6 – Taxi Fares Review 2023
- 2) To note the remaining outstanding actions.

(Reference – Rolling Actions Log, submitted.)

3. Regulatory Committee Business Bulletin

The Regulatory Committee Business Bulletin for May 2023 was presented.

Decision

- 1) **Card Payments in Taxis** – to note that Legal Services would revisit the advice provided to Committee on making acceptance of card payments in taxis mandatory and report back on the outcome of this reconsideration.

- 2) **Licensing Workload** – to record Committee’s thanks to the Licensing Staff Team for their hard work and efforts towards eliminating the post-Covid backlog of applications.
- 3) **Driver Skills Development Training Programme** – to note the intention to extend the training programme to existing drivers once the course had obtained the relevant accreditation.
- 4) To otherwise note the Business Bulletin.

(Reference – Business Bulletin, submitted.)

4. Sexual Entertainment Venues (SEVs): Update Following Judicial Review

The Air Weapons and Licensing (Scotland) Act 2015 added new sections to the Civic Government (Scotland) Act 1982, enabling local authorities to introduce a discretionary licensing system for sexual Entertainment Venues (SEVs).

On 31 March 2022, the Council resolved to licence SEVs in terms of section 45B and Schedule 2 of the 1982 Act with an initial implementation date of 1 April 2023.

As a result of a Judicial Review of the SEV licensing policy in the Court of Session where the Court had found against the Council in favour of the petitioners, the Regulatory Committee had postponed the implementation date to 31 December 2023.

It was proposed to carry out a statutory consultation over a period of 12 weeks to seek community and business views on what the appropriate number of SEVs should be for Edinburgh and for each relevant locality within the city. The consultation would also seek views on the existing SEV policy statement and conditions framework.

Motion

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
 - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.
 - ii) what the appropriate number of SEVs for each relevant locality within the city should be.
 - iii) the existing SEV policy statement and conditions framework.
 - 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
- moved by Councillor Ross, seconded by Councillor Caldwell

Amendment 1

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
 - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.

- ii) what the appropriate number of SEVs for each relevant locality within the city should be.
 - iii) the existing SEV policy statement and conditions framework.
- 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
 - 3) To note it was regretful that, at the Regulatory Committee on 31 March 2022, despite the legal advice given to Committee which they did not heed, and the risk of the Council being taken to a Judicial Review, the Labour Group along with their Conservative colleagues voted against Sexual Entertainment Venues. Additionally, neither Labour nor Conservative Councillors gave any thought for the consequences this vote would have on those working in this industry.
 - 4) To note the Judicial Review held on 10 February 2023 found against the Council and as a result the cost for defending this decision amounted to circa £117,000, money that could have been spent on Council services.
 - 5) To thank officers for the great deal of additional work they undertook as a result of defending a case which was doomed to be a failure.
- moved by Councillor Fullerton, seconded by Councillor Rae

Amendment 2

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
 - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.
 - ii) what the appropriate number of SEVs for each relevant locality within the city should be.
 - iii) the existing SEV policy statement and conditions framework.
 - 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
- moved by Councillor Mowat, seconded by Councillor Dalgleish

In accordance with Standing Order 22(12), Amendment 1 was accepted as an addendum to the motion.

Voting

For the motion (as adjusted): 6 votes

For Amendment 2: 3 votes

(For the motion (as adjusted) – Councillors Caldwell, Dixon, Fullerton, Mattos Coelho, Rae and Ross.

For Amendment 2 – Councillors Dalgleish, Meagher and Mowat.)

Decision

To approve the following adjusted motion by Councillor Ross:

- 1) To agree to carry out a statutory consultation process to seek community and business views on:
 - i) what the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be.
 - ii) what the appropriate number of SEVs for each relevant locality within the city should be.
 - iii) the existing SEV policy statement and conditions framework.
- 2) To note the update on the legal costs incurred in respect of the Judicial Review of the existing SEVs.
- 3) To note it was regretful that, at the Regulatory Committee on 31 March 2022, despite the legal advice given to Committee which they did not heed, and the risk of the Council being taken to a Judicial Review, the Labour Group along with their Conservative colleagues voted against Sexual Entertainment Venues. Additionally, neither Labour nor Conservative Councillors gave any thought for the consequences this vote would have on those working in this industry.
- 4) To note the Judicial Review held on 10 February 2023 found against the Council and as a result the cost for defending this decision amounted to circa £117,000, money that could have been spent on Council services.
- 5) To thank officers for the great deal of additional work they undertook as a result of defending a case which was doomed to be a failure.

(References – Regulatory Committee 13 March 2023 (item 1); report by the Executive Director of Place, submitted)

5. Review of Taxi Fare Structure – Outcome of Consultation

On 6 February 2023, Committee had agreed that the proposed revised taxi fare scales be advertised for public consultation under section 17(2) of the Civic Government (Scotland) Act 1982.

The proposed changes to the taxi fare scale reflecting the feedback received were submitted.

Decision

- 1) To note the report by the Executive Director of Place and that the Council's statutory duties had been met in relation to the consultation.
- 2) To note the representations received during the statutory public consultation period as attached at Appendix 3 of the report.
- 3) To agree the fare changes, as set out in paragraph 4.2, to fix the taxi fare scales (Appendix 2) with an effective date of 9 June 2023.

- 4) To note that, following the determination of the fare charges by the Committee, officers would carry-out the statutory notification procedures for the revised taxi fare scales.

(References – Regulatory Committee 6 February 2023 (item 6); report by the Executive Director of Place, submitted)

6. Short Term Let Licensing Policy – Minor Updates

The Committee had previously agreed a Policy and Conditions with respect to Short Term Lets in the City of Edinburgh.

Minor typographical errors had been identified in the Policy and approval was sought to rectify these in advance of the forthcoming hearing on the Policy. No further changes to the Policy were proposed.

Decision

- 1) To note the report by the Executive Director of Place.
- 2) To agree the minor amendments to the Short Term Lets Licensing Policy described in paragraphs 4.1 and 4.3 of the report.

(References – Regulatory Committee 29 September 2022 (item 4); report by the Executive Director of Place, submitted)

7. Licensing Policy Development – Street Trading Update

An update was provided on proposals for street trading and market operator licensing with the city and specifically the city centre.

Decision

- 1) To note the report by the Executive Director of Place.
- 2) To note that the completion of works at the National Galleries of Scotland had been delayed until 2024 and that further work would be undertaken by the Council officers in relation to the wider plans for the use of Mound Precinct and Playfair Steps following the completion of the construction works.
- 3) To continue the current arrangement preventing street trading on the High Street and Hunter Square until a review was carried out.
- 4) To agree to consult on the current trading policy with emphasis on the issues identified in paragraph 4.2 of the report.
- 5) To note that a further report would be submitted to Committee.

(References – Regulatory Committee 18 January 2021 (item 5); Culture and Communities Committee 13 December 2022 (item 1); report by the Executive Director of Place, submitted)

8. Food Health and Safety Business Plan 2023-24

The annual Food Health and Safety Business Plan for 2023-24 was submitted. The format and content of the Plan relating to food was governed by the Framework Agreement on Local Authority Food Law Enforcement.

Members received a presentation from officers detailing the overall work and responsibilities of the Environmental Health service.

Decision

- 1) To note the report and that the Business Plan would be submitted to Food Standards Scotland when requested.
- 2) To note the challenges recruiting Environmental Health Officers which had led to a lower rate per population than the Scottish average, therefore to request an update in the Business Bulletin in two cycles outlining the steps being taken to train and recruit more students.

(Reference – report by the Executive Director of Place, submitted)

9. Trusted Trader Scheme Annual Report

An overview was provided on the Edinburgh Trusted Trader Scheme. The Scheme had been introduced in Edinburgh to increase consumer protection by providing access to vetted traders who agreed to comply with agreed complaint resolution processes.

Members received a presentation from officers highlighting the work undertaken by the Service.

Decision

To note the report.

(Reference – report by the Executive Director of Place, submitted)

10. Changes to Legislation on the Sale and Use of Fireworks in Scotland – referral from the Culture and Communities Committee

The Culture and Communities Committee had referred a report on the changes to legislation on the sale and use of fireworks in Scotland to this Committee to consider if any relevant outputs from the report should be included within the further update report requested for Autumn 2023 on the changes and implications for the City of Edinburgh Council.

Decision

- 1) To note the report.
- 2) To include an update in the next Business Bulletin on costs to the Council of administering the provisions of the new Scottish Government legislation.

(Reference – referral report from the Culture and Communities Committee 13 December 2022 (item 11), submitted)

11. Motion by Councillor Ross – Hire Trade Age Policy

The following motion by Councillor Ross was submitted in terms of Standing Order 17(1):

“Committee notes:

1. The previous representations it has received from representatives of the taxi and private hire car trades concerning the high demand for, and low supply of, second-hand Euro 6 standard taxis and the high cost of new and second-hand electric vehicles.
2. There were 259 Euro 5 taxis and 268 Euro 5 PHCs in Edinburgh, representing respectively 20% and 13% of the total numbers, along with 761 Euro 6 taxis and 1,227 Euro 6 PHCs, representing respectively 60% and 59%, as recorded in the report presented to committee in November 2022.
3. Euro 5 taxis, that have been retrofitted via a Clean Vehicle Retrofit Accreditation Scheme (CVRAS) approved by the Energy Saving Trust, will be able to enter Edinburgh’s Low Emission Zone without penalty when enforcement starts on 1 June 2024, as outlined in the Business Bulletin presented to committee in February 2023.
4. Euro 6 vehicles will start being impacted by the 10-year age limitation in 2024.
5. There are a number of issues, in addition to those listed above, which are likely to have an impact on the number of taxis and PHCs in the next few years, such as the availability of vehicles capable of carrying wheelchair passengers.

Committee therefore agrees:

6. For the temporary period only from 1 May 2023 to 30 April 2024 inclusive (“the relevant period”), to amend standard condition 256 of the Council’s standard conditions for the holders of existing taxi licences to permit the use of Euro 6 vehicles, and CVRAS retrofitted Euro 5 vehicles, less than 15 years old to be licensed as taxis. Accordingly, such a licensed vehicle submitted for test during the relevant period in respect of renewal of a taxi licence prior to the 14th anniversary of its registration may continue to operate as a taxi.
7. For the temporary period only from 1 May 2023 to 30 April 2024 inclusive, (“the relevant period”) to amend standard condition 303 of the Council’s standard conditions for existing PHC licences to permit the use of Euro 6 vehicles, less than 15 years old to be licensed as private hire cars (PHCs). Accordingly, a licensed vehicle submitted for test during the relevant period in respect of renewal of a PHC licence prior to the 14th anniversary of its registration may continue to operate as a PHC.
8. That there will be no change to the requirement to meet the relevant Euro Standard, notwithstanding the temporary amendment to conditions outlined above.
9. To ask officers to engage with the hire car trade to discuss these issues along with possible solutions and any possible licensing responses and to bring a report to committee in four cycles.

10. To ask the Convener to write to the Scottish Government to seek engagement on vehicle age and emission issues as they apply to the hire car trade.”

- moved by Councillor Ross, seconded by Councillor Caldwell

A joint written submission from Central Taxis, City Cabs (Edinburgh) Ltd, the Scottish Taxi Federation and Unite the Union as representatives of the taxi trade supporting the terms of the motion was also submitted.

Decision

To approve the motion by Councillor Ross.

(Reference – joint written submission, submitted)