

REGULATORY AND GENERAL PURPOSES COMMITTEE

Tuesday, 27 September 2022

Present: Councillor A Hodson (Chair)

Councillors C O'Hagan D Burgess-Joyce
C Davies L Fraser
J Hoey S Williams
C Jones C Cooke
D Kenny D Mitchell
M Booth K Greaney

Apologies Councillors S Bennett M Collins

1 WELCOME AND INTRODUCTION

The Chair welcomed everyone to the meeting and those watching the webcast.

2 APOLOGIES

The Chair confirmed that apologies had been received from Councillors S Bennett and M Collins.

3 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee were asked to declare any disclosable pecuniary and non-pecuniary interests in connection with any item on the agenda and state the nature of the interest.

Councillor C Jones declared a personal interest in item 7 – Conferment of the Title of Honorary Alderman by virtue of being married to one of the nominees, Adrian Jones.

4 PUBLIC AND MEMBER QUESTIONS

The Chair reported that no questions, statements or petitions had been received from members of the public.

5 MINUTES

Resolved – That the accuracy of the minutes of the meetings held on 7 June and 27 July 2022 be approved.

6 MINUTES OF THE REGULATORY PANEL

Resolved – That the accuracy of the minutes of the meetings of the Regulatory Panel held on 13 May, 10 June, 13 July and 12 August 2022 be approved.

7 CONFIRMATION OF THE TITLE OF HONORARY ALDERMAN

Councillor C Jones declared a personal interest in this matter (minute 3 refers).

The Director of Law and Governance submitted a report requesting that Members of the Committee give consideration as to whether to recommend to Council that the title of Honorary Alderman/Alderwoman be conferred on former Councillors Adrian Jones, Les Rowlands and Moira McLaughlin.

The Civic and Electoral Services Manager reported that former Councillor Adrian Jones had been a Member of the Council from May 1995 representing Seacombe Ward as Labour Party Member until May 2022. Adrian Jones had served as Mayor of Wirral for the Municipal Year 2008/09. Adrian Jones had also been a Cabinet Member for Resources, Finance, Assets and Technology during his service to Wirral Council.

It was reported that former Councillor Moira McLaughlin had been a Member of the Council from May 1996, representing Rock Ferry Ward (formerly Tranmere) as Labour Councillor until October 2018. Moira McLaughlin had then resigned from the Labour Party and served the remainder of her term as an Independent until May 2022. Moira McLaughlin had served as Mayoress of Wirral for the Municipal Year 2011/12 and had also served as Cabinet Member for Adult Health and Social Care.

It was further reported that former Councillor Les Rowlands had been a Member of the Council from May 1998, representing Heswall Ward as Conservative Party Member until May 2022. Les Rowlands had served as Mayor of Wirral for the Municipal Year 2015/16.

The Council had previously determined that former Members who had served twenty years on the Council or a predecessor Council were eligible for nomination to this award and therefore former Councillors Adrian Jones, Les Rowlands and Moira McLaughlin were eligible to have the title of Honorary Alderman/Alderwoman conferred upon them.

Members were informed that Section 249 of the Local Government Act 1972 provides that the title of Honorary Alderman or Honorary Alderwoman may be

conferred by the Council on persons who are persons of distinction and/or who have, in its opinion, rendered eminent service to the place or area. The title is to be conferred by a resolution passed by not less than two thirds of the Members voting on it at a meeting of the Council specially convened for the purpose.

It was reported that successful nominees for the office of Honorary Aldermen and Alderwomen of this Council had previously been awarded a suitable badge at a special ceremony. Currently, former Councillors Adrian Jones, Les Rowlands and Moira McLaughlin were the only former Councillors eligible to be appointed as an Honorary Alderman/Alderwoman based on the Council's criteria.

Members were further informed that the intention would be to present former Councillors Adrian Jones, Moira McLaughlin and Les Rowlands with a badge of office, the total cost of which would be approximately £2070 and there would also be the small cost of inscribing their names on the Roll of Honour Board which could be met from existing budgets.

Resolved – That the conferment of the title of Honorary Alderman/Alderwoman on former Councillors Adrian Jones, Moira McLaughlin and Les Rowlands be recommended to Council in accordance with Section 249(1) of the Local Government Act 1972.

8 APPOINTMENT OF MEMBER TO THE NORTH WESTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

The Director of Law and Governance submitted a report in respect of the appointment of a Committee Member to the membership of the North Western Inshore Fisheries and Conservation Authority and note the Terms of Reference approved by Council.

It was reported that the Terms of Reference of the Regulatory and General Purposes Committee as contained in the Council's Constitution (approved by Council on 25 May 2022), paragraph 8.2(c) required this Committee to fulfil all of those functions, more particularly described as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), and associated matters, including but not limited to "functions relating to sea fisheries".

It was further reported that it had been resolved at the Council meeting held on 6 September 2021 (minute 32 refers) that the Regulatory and General Purposes Committee be given delegated authority to appoint one of their Members to the North Western Inshore Fisheries and Conservation Authority.

Members were advised that the North Western Inshore Fisheries and Conservation Authority (NWIFCA) had been formed in 2011 "to lead,

champion and manage a sustainable marine environment and inshore fisheries by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry”.

The Principal Lawyer for Litigation and Governance informed Members that the NWIFCA district spans 850km of coastline reaching from the Welsh Border in the Dee Estuary to the Scottish Border in the Solway Firth and that the area covered included coastal Councils landward areas and sea areas up to 6 nautical miles offshore, and also that the Authority has thirty members.

It was reported that once appointed to the North Western Inshore Fisheries and Conservation Authority, the attendance by the elected Member had been designated as an approved duty.

Resolved –

- (1) That the Terms of Reference of the Regulatory and General Purposes Committee as referred to in paragraphs 1.1 of the report be noted.**
- (2) That Councillor D Mitchell be appointed with immediate effect to represent Wirral Borough Council on the North Western Inshore Fisheries and Conservation Authority and any sub-committee of that Authority for the municipal year 2022-2023.**

9 REVIEW OF HACKNEY CARRIAGE FARES

The Director of Law and Governance submitted a report to enable Members of this Committee to consider objections received in respect of a proposed increase to the Hackney Carriage fare tariffs.

The Licensing Manager reported that on 27 July 2022 this Committee considered a proposal from Unite the Union to increase the Council’s Hackney Carriage fare tariffs and resolved that the proposal be approved subject to any objections being received as part of the consultation process.

The proposal submitted by Unite the Union to increase the Hackney Carriage fare tariffs was set out within the report. The current fare tariffs had also been set out within the report together with a table comparing the current and proposed rates, a table showing the effect of the proposed increase and details of the Hackney Carriage fare tariffs applicable in other neighbouring authorities.

It was reported that the proposed increase had been advertised in the Wirral Globe on 10 August 2022 and had provided an opportunity for objections to be made by 31 August 2022. A newsletter had also been sent to every

Hackney Carriage Driver which informed them of the proposed increase and provided details of the opportunity to object to the proposal.

Members of the Committee were advised that in response to the consultation, 18 objections had been received from Hackney Carriage Drivers and one objection had been received from a member of the public who uses Hackney Carriages. A table providing details of the objections was included as Appendix 5 to the report. The Licensing Manager reported that the responses to the consultation that had been received supported an increase in the Hackney Carriage fare tariffs but they considered that an increase in the initial charge to £5.00 would have a negative impact on their trade. Details of alternative fare increases were provided in some of the responses received.

It was highlighted that within the table of objections a driver had provided details of an alternative fare increase to that which was proposed by Unite the Union but that it resulted in a similar increase in the fare, in respect of Tariff 1, in that passengers would pay £5.00 for the initial mile and that the subsequent fares were also in line with those proposed by Unite the Union. It was suggested that the initial charge could start at £3.60 for the first 300 yards and that each subsequent 207 yards be 20p.

The Licensing Manager advised that representatives of the Trade were present at the meeting.

Further to questions from Members as to the number of Hackney Carriage Drivers that Unite the Union represented it was clarified by Gary Gregory, Unite the Union, that to be able to create a Branch that union rules required there to be a minimum number of eighty (80) members.

Caroline Pettersson, Branch Secretary, Unite the Union, addressed the Committee and advised that she believed the initial proposal from Unite the Union for the first 1760 yards to be £5.00 was a reasonable amount as the fares had not increased for 4 years and also believed this was a fairer proposal than the alternative put forward to start at £3.60 then 20p for every 207 yards as it was more transparent.

With reference to the objections received, Members expressed concerns with regard to customers having to pay an initial starting charge of £5.00 and noted the concern expressed by those objecting within the Trade in respect of the proposed starting charge of £5.00.

Gary Gregory, Unite the Union, addressed the Committee and advised Members of the Committee that too many drivers were working for too few fares and believed that a start price of £5.00 reflected the cost of living which was needed by drivers. He also referred to the effect of the Covid 19 pandemic on drivers.

Keith Maddock, Hackney Carriage Driver, addressed the Committee and agreed that a rise was needed, however he expressed his concern at an initial proposed charge of £5.00.

Members further considered the proposal by Unite the Union in respect of the other Tariffs and gave recognition to the fact that Tariff 2, night rates, would apply when drivers would be working unsociable hours. Members raised no concerns in respect of the proposals of Tariff 3 and Tariff 4 put forward by Unite the Union.

Resolved –

- (1) **That further to consideration of the objections received in respect of the proposed increase in the Hackney Carriage fare tariffs, the table of fares to be applied to Hackney Carriages be:**

TARIFF 1	
First 300 yards	£3.60
Each subsequent 207 yards	20p
TARIFF 2	
First 1392 yards	£5.00
Each subsequent 172 yards	20p
TARIFF 3	
First 1160 yards	£5.00
Each subsequent 120 yards	20p
TARIFF 4	
First 880 yards	£5.00
Each subsequent 107.5 yards	20p

- (2) **That the revised table of fares must come into effect within 10 days from 28 September 2022.**

10 **MARKET RIGHTS POLICY**

The Director of Law and Governance submitted a report requesting that Members of this Committee approve a Market Rights Policy.

The Licensing Manager advised that a draft Market Rights Policy was attached as appendix 1 to the report.

It was reported that Wirral Council has the right to operate a market by virtue of The Birkenhead Improvement Act 1833, The Market and Fairs Clauses Act 1847 and The Birkenhead Corporation Act 1881.

The Licensing Manager informed Members that there was no statutory requirement to enforce the Council's Market Rights, however by adopting a clear policy the Council would have a clear audit trail should its discretion be exercised and advised that the adoption of a Market Rights Policy provided a framework which had a number of benefits including the protection of traders operating in Birkenhead Market, an opportunity for relevant stakeholders including Ward Councillors to provide input into applications for markets to be held in the borough, the ability to regulate markets through conditions attached to the Market Rights Licence and the ability for the Council to be compensated for the use of its Market Rights.

The Licensing Manager reported that the draft Policy went out to consultation between 28 September 2021 and 22 December 2021 and had been published on the Council website and circulated directly to officer representatives of the Local Planning Team, Environmental Health, Asset Management, Highways, Culture Team, Regeneration, the Manager of Birkenhead Market and to known market operators.

Feedback had been received from 56 individuals/organisations in response to the consultation. A summary of comments and responses received had been attached as appendices to the report. The issues raised in the responses received related to concerns about the impact of the policy on charitable organisations wishing to operate markets, the costs associated with having to obtain a licence and concern that applying the Council's exclusive right to hold a market would restrict the ability of community groups to hold markets and have a detrimental impact on the economy of Wirral. The draft Policy had been amended in response to the concerns raised to clarify those circumstances where a Markets Rights Licence would not be required.

Members were advised that following consultation in respect of temporary market applications, should no objections be received and there are no material considerations, the policy would allow Licensing Officers to issue a Market Rights Licence subject to conditions. However, should objections be received or there are material considerations, the officer shall prepare a report outlining the comments of stakeholders and any material considerations and the application would be referred to the Regulatory Panel. The decision whether to grant a Market Rights Licence shall be entirely at the discretion of the Regulatory Panel.

Members were also advised that following consultation in respect of permanent market applications, Licencing Officers would refer all applications to the Regulatory Panel for determination. The decision whether to grant a Market Rights Licence shall be entirely at the discretion of the Regulatory Panel.

Mr Steve Niblock, Chair of Wirral Farmers Market addressed the Committee. He challenged the information provided within the report in respect of the common law which determined that the exclusive rights should apply to a radius distance of 6 and 2 thirds of a mile from Birkenhead Market. He believed that the Policy would prevent other markets from operating and queried the charges that would apply.

The Licensing Manager confirmed that any fees that would apply in respect of a Market Rights Licence would be subject of a report to a future meeting of this Committee.

In response to the concerns raised in respect of fees, the Chair advised that the intention of implementing the Policy would not be to penalise small charities or markets but to provide protection, also that no fees had yet been agreed and would be discussed in public.

Mr John Jones, addressed the Committee and advised that small markets have a role to play, and benefit local communities in generating the local economy He advised that he believed they have no impact on Birkenhead Market.

Members' responses to the issues raised echoed the concerns in respect of large fees and the wider impact of fees paid for the use of premises for markets. The Chair advised that he acknowledged the concerns raised but considered that a policy was needed to provide a grasp on events taking place in the Borough.

The Licensing Manager referred to the purpose of the report which was a request to approve the Policy which had been amended in response to concerns raised following the consultation.

Members discussed the criteria within the Policy and were advised that having heard the concerns raised the criteria could be further amended by the Committee.

Mr Sam Johnson, Heswall Farmers Market, addressed the Committee and advised that the fee for hiring Heswall Hall was currently £155 but this would likely increase and that these premises could only accommodate 20 stalls.

Resolved –

- (1) That the draft Market Rights Policy be approved subject to the following amendments to paragraph 2.3 in respect of when a Markets Rights Licence will not be required:**
 - Operates for no more than 2 consecutive days a year at any one time,
 - Occurs no more than 12 times a year at the same location
 - Has no more than 30 stalls, and
 - Has no significant impact on the trading activities of Birkenhead Market.

- (2) That the Policy be kept under review and a further report in respect of fees be brought back to a future meeting of this Committee.**