

Monday, 2 June 2014
at 6.00 pm



Scrutiny Committee

Present:-

Members: Councillor Ansell (Chairman) Councillor Shuttleworth (Deputy-Chairman) Councillors Belsey, Cooke, Murray, Thompson and Ungar

1 Minutes of the meeting held on 3 February 2014.

The minutes of the meeting held on 3 February 2014 were approved and the Chairman was authorised to sign them as a true and accurate record.

2 Apologies for absence.

There were none.

3 Hackney Carriage Proprietor Fee Levied.

Members were advised that the setting of hackney carriage and private hire licensing fees was subject to the specific requirements of the Local Government (Miscellaneous Provisions) Act 1976. It was a requirement that such fees are reasonable and imposed 'with a view to recovering the costs of issue and administration'. The Council's hackney carriage and private hire licensing function was self-financing. The fees must not be used to raise revenue but instead were set at a level which aims to cover the cost of administering the function within the constraints of regulation.

The power to set fees had not been delegated to officers but rather to Committee. On the 13th January 2014 General Licensing Committee decided to consult on proposals to amend the hackney carriage and private hire licensing fees charged from April 2014, with a view to introducing consistency between the two arms of the trade going forward by setting new fee levels for the first time since 2001. On the 17th March 2014, General Licensing Committee agreed the fee amendment proposed on the 13th January 2014 and thereafter consulted on be adopted with effect from 1st April 2014.

Further, at the meeting of 13th January 2014, the current Chair of Scrutiny Committee suggested General Licensing Committee also refer the historical difference between the Hackney Carriage Proprietor fee and Private Hire Vehicle licence fee to Scrutiny Committee for consideration.

Between 2001 and 2014, each Hackney Carriage Proprietor paid £187 per year for their licence compared to the sum of £95 per year paid by each Private Hire vehicle licence. The difference of £92 was held in reserve each year to reflect the requirement to fund patent unmet demand surveys. Such surveys were required at 3 year intervals in accordance with section 16 of the Transport Act 1985 and subsequent case law in order to support a policy to impose a numerical limit on the number of Hackney Carriage

Proprietors within the Borough. However, on 21st April 2009, the numerical limit on the number of taxis ceased following a direction by the General Licensing Committee. The effect of that decision was to render differential fees unnecessary from that point onward.

The situation was rectified by the alignment of the Hackney Carriage Proprietor fee and Private Hire Vehicle licence fees following the decision of 1st April 2014 by the General Licensing Committee. The new fee arrangements (the first such changes since 2001) ensured that the requirement to set the fees at a level to ensure the budget did not fall into deficit and remained self financing was met going forward, as well as removing the differential between the Private Hire Vehicle licence fee and Hackney Carriage Proprietor fee.

While insufficient financial data existed to reach a definitive assessment, it appeared that up until 2011 support charges may have been set too low and as a result the Hackney Carriage and Private Hire budget had effectively been subsidised by the central Council budget. As a result, the account remained in surplus over a period of years and no fee increase to the Hackney Carriage and Private Hire licence fees was needed to meet the overall cost of this function.

From 2014, the fees are now at a level which reflects a realistic prediction of the cost of financing this function going forward.

The committee discussed the possibility of refunding the differential of the fees charged to Hackney Carriage Licence owners between 2009 and 2014 in the interests of fairness and queried the legalities of such a refund. The Lawyer to the Council advised that drawing such a refund from Council Reserves – a pot which effectively belonged to the people of Eastbourne - could potentially be the subject of judicial review. In addition the committee were advised that there was no legal requirement to 'refund' any perceived overpayments and that the risk of successful challenge to the historic fees levied was unlikely. The regularisation of the fees from 2014 onward has brought necessary equality and fairness to both arms of the trade.

The committee discussed the pros and cons of any such refund and it was apparent that a number of Councillors felt that a refund would be the most appropriate and fair course of action. However, it was acknowledged that this may be the more complicated option given the turnover of licence holders in relevant years. Further the ring-fenced budget was currently estimated to be in credit in around the sum of £20,787 by the end of April 2015, which would mean that a shortfall of up to £30k would need to be found to refund the full differential should that be the desired course of action. The Financial Services Manager clarified that accounting rules required any shortfall to come from the ring-fenced taxi account and did not permit Council reserves to be drawn on. As a result the £30K shortfall could only be found by increasing the fees for the current and future trade. The Lawyer to the Council confirmed noted that any such increase could potentially be challenged by those members of the trade on whom those increased fees were levied.

Members discussed the value of a refund which acknowledged the differential to the value of the £20K predicted profit in the 2014/15 budget only in recognition of the perceived unfairness of the previous charging policy for Hackney Carriage licencees.

The Chair expressed disappointment that such an option had not been placed before Committee but was informed that it could be considered by General Licensing Committee.

The committee also noted that the evidence showed that a differential in charges levied on Hackney Carriage and Private Hire licencees was allowed to continue between 2009 and 2014, although the justification for this fee arrangement had ceased to exist in 2009. However it was equally important to acknowledge that there had been no increase in fees to either arm of the trade since 2001.

Further, evidence shows that the Eastbourne fee rate for Hackney Carriage drivers over these past years had been one of the lowest in the County. The proposed charge of £150 across both arms of the trade going forward was comfortably the lowest in the County (other districts charge from £180 to £350). Given that the lowest charge elsewhere in the County is £180 and our differential charges over the last 5 years has been £187 for Hackney Carriage drivers and £95 for Private Hire drivers, it was the latter that was out of step rather than the former.

Therefore, whilst acknowledging that differential charges should not have been levied between 2009 and 2014, the evidence of other authority charge levels shows that the differential was more a case of an historic under-charge to the Private Hire trade rather than an over-charge to the Hackney Carriage trade. Further, the blanket £150 charge agreed by Licensing Committee going forward, resulted in a significant reduction in charge to Hackney Carriage drivers and a significant increase in charge to Private Hire drivers. As a result, the matter had been resolved and achieved fairness and high value in the charging regime for both arms of the trade in comparison with all other Sussex authorities going forward.

The committee requested that their comments be reported back to the Licensing Committee for their consideration and final resolution to this matter.

RESOLVED: That the committees comments be reported back to the Licensing Committee for their consideration and final resolution to this matter.

4 Corporate Performance and Provisional Outturn- Quarter 4 2013/14.

Members considered the report of the Deputy Chief Executive and Chief Finance Officer updating Members on the Council's performance against Corporate Plan Priority actions, indicators and milestones for 2013/14

Members were advised that Appendix 1 detailed activities and outturns of the performance indicators listed within the Corporate Plan 2013/14.

The first section of Appendix 1 listed all the Corporate Plan priority actions whose in-year milestones had already been fully completed this year.

The second section of Appendix 1 listed the ongoing actions showing all milestones that were scheduled for completion in 2013/4 and any incomplete milestones from earlier in the year along with commentary to explain the context behind them.

Of the 38 Key Performance Indicators reported in the Corporate Plan this quarter, 9 were currently showing as "Red," 16 were showing as "Green," 4 were showing as "Amber" and 9 were "data only" or contextual PIs. The off target PIs were;

- TL_060 Online accommodation referrals made
- DE_009 Increased allotment plot numbers
- ECSP_004 Violent crime in a public place
- CD_052 Number of homes where Category 1 hazards have been remedied
- CD_055 Number of completed adaptations
- CD_056 Average number of days for assistance with adaptations
- CD_156 Number of households living in temporary accommodation
- CS_003 Sickness absence – average days lost per employee
- CS_011 Telephone call abandonment rate

Members noted the position of the General Fund as of the end of the year showed a net spend on service expenditure of £14.593m. The provision outturn variance of £25,000 showed a movement of £65,000 compared to the December projected variance of £40,000.

Service expenditure for the year was a variance of £(190,000) mainly as a result of:

- Catering Service £182k
- Grounds Maintenance settlement of disputed sum £122k
- Housing Benefits Administration £77k
- Dotto Train £71k
- Settlement of Land Charges Claims 48k

These had been offset principally by the following favourable variances:

- Housing Benefit Subsidy and recovery of HB Overpayments (290k)
- Refuse Collection Contract (£154k)
- Savings and additional income in Bereavement Service (£130k)
- Bed and Breakfast (69K)
- Downlands income and grant (61k)

The General Fund Summary figures included the transfers to and from reserves as shown in Appendix 3 of the report.

The summary of capital expenditure was shown at Appendix 5 of the report. The revised capital programme for 2013/14 was £16.2m and the outturn £15.6m representing a variance of £597,072 or 3.7%. A detailed reason

for the variance against each scheme was shown at appendix 5 of the report.

The report provided an overview of performance against the authority's priority actions and indicators as at the end of 2013/14. Revenue expenditure was in line with budget monitoring predictions and the outturn variance represented less than 0.14% of net budgeted expenditure.

The council continued to have general balances in excess of the declared minimum which provided flexibility for future investment in corporate plan priorities over the medium term as well as providing funding for invest to save schemes and asset management requirements.

The Housing Revenue Account outturn delivered a surplus representing 1.8% over turnover. The HRA balance was in line with expectations and was sufficiently robust to support the housing self-financing 30 year business plan. 96% of the capital programme was delivered in year and in line with resources allocated.

NOTED.

The meeting closed at 7.29 pm

Councillor Ansell (Chairman)