

CAMBRIDGE CITY COUNCIL

REPORT OF: Yvonne O'Donnell
Environmental Health Manager

TO: Licensing Committee

17th October 2016

WARDS: All

DELEGATED OFFICER DECISION MAKING IN RESPECT OF THE TAXI POLICY AND UPDATE OF COUNCIL CONSTITUTION

1 INTRODUCTION

- 1.1 Cambridge City Council as the Licensing Authority for the relevant area holds the responsibility for licensing Hackney Carriage, Private Hire and Dual Drivers along with Vehicle Proprietors and Private Hire Operators within the City. The Council's Hackney Carriage and Private Hire Licensing Policy (Appendix A) applies to all drivers, vehicles and operators.
- 1.2 The policy and decision making process contained within the Policy is to ensure that both the trade and the public have a document that fully explains the licensing procedures to all parties in a clear and transparent manner. As part of the Policy there are a number of enforcement aspects connected to the operational delivery of the service to the public. This includes the Enforcement Management System, Grounds for Disbarment and other enforceable guidance such as the age of vehicles, driver medical examination requirements, and vehicle standards.
- 1.3 The Council seeks to carry out its licensing functions with a view to promoting the following objectives:
 - i) The safety and protection of the public;
 - ii) Vehicle safety, comfort and access;
 - iii) The prevention of crime and disorder;
 - iv) The promotion of environmental sustainability;
 - v) Protection of children and adults at risk from harm

- 1.4 Cambridge City Council and its Officers must administer the licensing function of the Council within the terms of the Policy, which has been fully considered and approved by the Council's Members.
- 1.5 As part of the Council's Constitution (Part 3) pages 92 & 93 (Appendix B) the section of Executive and Regulatory Functions provides powers delegated by the Executive and Licensing Committee to the Strategic Director in respect of Hackney Carriage and Private Hire vehicles.
- 1.6 The Constitution is to set out the rules that govern how the Council works and contains the rules setting out the processes by which decisions are made and also states who is responsible for making decisions. This in turn enables operational delivery and enforcement of the Hackney Carriage and Private Hire Licensing Policy and promptly addresses any breaches of policy on the grounds of public safety.
- 1.7 The current model of dealing with all enforcement issues or breaches of policy in relation to Hackney Carriages or Private Hire drivers, vehicles or operators is to refer the issue to the Licensing Sub-Committee. The Licensing Sub-Committee in effect makes the decision of The Council as the Licensing Authority. The full Licensing Committee determines the Hackney Carriage and Private Hire Licensing Policy at five year intervals. The next scheduled review takes place in October 2016. The Hackney Carriage and Private Hire Licensing Policy clearly sets out the requirements and standards expected of licensed drivers, vehicles and operators.
- 1.8 The only exception to this is if an urgent decision is required in the interest of public safety where the Head of Environmental Services, in Consultation with the Environmental Health Manager and Chair of Licensing can suspend or revoke a licence with immediate effect.
- 1.9 Further to the Licensing Sub-Committee or Head of Environmental Services decision making process there is always the statutory provision that a driver or vehicle proprietor has the right of appeal to the Magistrates Court following a decision of the Licensing Sub-Committee or Head of Environmental Services for urgent matters which they do not agree with.
- 1.10 It is proposed to delegate officer decision making to the Head of Environmental Services for matters where Policy has been breached or not met. It is proposed that when there is a breach of the Enforcement Management System this will be referred to the Licensing Sub-Committee for any decision to be made by Members with a right of appeal to the Magistrates Court (Appendix C).

- 1.11 The delegated officer decision making will be in respect of tactical and operational policy delivery where Members have already agreed the policy as part of the 5 yearly review. For example if a driver fails to meet the required medical standards, or if the vehicle exceeds the permitted age. Such decisions will be made by the Head of Environmental Services in consultation with the Environmental Health Manager. This decision will still be a decision of The Council. The right of appeal is safeguarded because there is always a statutory right of appeal to the Magistrates Court.
- 1.12 Once the Licensing Authority has made their decision, either by the Delegated Officer or Licensing Sub Committee, any right of appeal would be directly to the Magistrate's Court within 21 days from the date of the decision being communicated to the individual.
- 1.13 The benefits of adopting this approach include:
- A reduction in the volume of administration and resources required by Legal Services, Committee Services and the Licensing & Enforcement Team to deliver Sub-Committee hearings;
 - There would be a lower frequency of Sub Committee hearings that need to take place;
 - Decision making, necessary for the protection of public safety, would be able to be made more promptly;
 - It would increase the amount of time Licensing & Enforcement Officers have to investigate other more serious and complex issues and allow for a greater amount of time to be assigned to proactive licensing and enforcement issues without negating any of the individual's right of appeal.
- 1.14 Adoption of this policy would also align Cambridge City Council to the same process, which South Cambridgeshire District Council Licensing Committee use, to address 'low-level' policy matters.
- 1.15 In order for a delegated decision to be made, the Licensing and Enforcement Officer will collate and submit a report with the necessary information and evidence, to the Environmental Health Manager for consideration. The report will include details and information such as that of a Licensing Sub-Committee report so that it is clear and transparent how a delegated decision has been reached. Within this there will be details of the right of appeal for the licence holder.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 Members approve the delegated decision making process in the Hackney Carriage and Private Hire Licensing Policy as outlined in the table below.

| Current | Proposed |
|--|---|
| <p>The Council has delegated the following powers to the Head of Service:</p> <p>i) Hackney Carriages, private hire vehicles and trishaws except: the suspension of a driver's or a vehicle licence, unless the driver or proprietor of the vehicle, as appropriate, is informed of the right to appeal to the Licensing Sub-Committee within 14 days and in the event of such an appeal, the matter shall be heard within 7 days of receipt of the appeal.</p> <p>The Council has delegated to the Licensing Committee, who subsequently delegated to the Licensing Sub-Committee, the following powers relating to the licensing of Hackney Carriages and Private Hire Vehicles, the drivers of Hackney Carriages and Private Hire Vehicles, and the Operators of Private Hire Vehicles:</p> <p>i) To grant an application for a Licence ii) To attach conditions to a Licence iii) To refuse an application for the grant of a Licence iv) To refuse to renew an existing Licence iv) To suspend a Licence v) To revoke a Licence</p> | <p>The Council has delegated its Licensing function to the Licensing Committee and further delegated authority to the Licensing Sub Committee and to Officers of the Council who will determine applications and licensing decisions in accordance with the Policy.</p> <p>Any decision to refuse to grant, refuse to renew or suspend an application or any decision relating to the policy will be determined by Officers through the scheme of delegation. The applicant will have the right of appeal to the Magistrates Court.</p> <p>All decisions regarding breaches of the Enforcement Management System will be determined by the Licensing Sub Committee with a right of appeal to the Magistrates Court.</p> |

- 2.2 Subject to 2.1 above Members recommend to amend the constitution as outlined in the table below:

| Current | Proposed Amendment |
|---|--|
| <p>The Council has delegated the following powers to the Head of Service:</p> <p>i) Hackney Carriages, private hire vehicles and trishaws except: the suspension of a driver's or a vehicle licence, unless the driver or proprietor of the vehicle, as appropriate, is informed of the right to appeal to the Licensing Sub-Committee within 14 days and in the event of such an appeal, the matter shall be heard within 7 days of receipt of the appeal.</p> | <p>The Council has delegated the following powers to the Head of Service:</p> <p>i) Hackney Carriages, private hire vehicles and trishaws</p> <p>Except for all decisions regarding breaches of the Enforcement Management System will be determined by the Licensing Sub Committee with a right of appeal to the Magistrates Court.</p> |

3. BACKGROUND

- 3.1 The Head of Environmental Services and the Environmental Health Manager review and determine a number of urgent matters which breach policy requirements and are empowered to make the appropriate decision on behalf of the Council. As a matter of good practice, the Chair of the Licensing Committee is notified of the decision. It is proposed that the Chair will continue to be notified under the proposed arrangement.
- 3.2 If this Licensing Committee agrees and subsequently adopt all parts of the amended Hackney Carriage and Private Hire Licensing Policy, officers involved in delegated decision making in any situation will be in line with the operational delivery of this policy approach.

4. CONSULTATION

- 4.1 A consultation on the Hackney Carriage and Private Hire Licensing Policy was undertaken from 19th July to 22nd August 2016 which has the delegated decision making proposal outlined.
- 4.2 Feedback was widely encouraged and all comments were considered as part of the review and in preparation of the final policy document.
- 4.3 A total of 10 comments were received in relation to the Hackney Carriage and Private Hire Licensing Policy. There were no comments relating to the delegated decision making process which can be found at Appendix D. The results of the consultation exercise are in order for Members to take account of the feedback from the trade and other stakeholders to be able to consider any amendments to the Hackney Carriage and Private Hire Licensing Policy.

5. CONCLUSIONS

- 5.1 The Licensing Committee and the Licensing & Enforcement Manager have a responsibility to ensure that the policies and procedures which are in place are robust enough to ensure that only fit and proper persons hold a licence and that the Council supports the licensed Hackney Carriage and Private Hire trade in protecting the public.
- 5.2 The Hackney Carriage and Private Hire Licensing Policy is designed to put the Council's licensing requirements into practice and in order to deliver a transparent, accountable and efficient licensing service.

6. IMPLICATIONS

(a) **Financial Implications**

Provision is made in the council's budget for the taxi licensing service, which is run on cost recovery basis.

(b) **Staffing Implications**

There will be a requirement for an increased level of decision making at Head of Service and Manager level. This may also require increase consultation with Legal services.

(c) **Equal Opportunities Implications**

An Equality Impact Assessment has been undertaken as part of the Hackney Carriage and Private Hire Licensing Policy review which includes the impact of this change in relation to delegated decision making,

(d) **Environmental Implications**

Nil

(e) **Procurement**

Nil.

(f) **Consultation and communication**

There has been a formal consultation on the Hackney Carriage and Private Hire Licensing Policy with the trade and other key stakeholders.

(g) **Community Safety**

Cambridge City Council has a duty to provide a safe and secure Hackney Carriage and Private Hire service. The failure of the Council to

review, consult and publish the Hackney Carriage and Private Hire Licensing Policy on a regular basis, may result in a Judicial review being brought against the Council.

APPENDICES

Appendix A: Proposed Hackney Carriage and Private Hire Licensing Policy

Appendix B: Executive and Regulatory Functions Delegations Page 92/93

Appendix C: Enforcement Management System

Appendix D: Consultation Responses

BACKGROUND PAPERS:

None.

The author and contact officer for queries on the report is Vickie Jameson on extension 8516.

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