

# Minutes

## Licensing Committee



15th November 2017

Present:

Councillors	Present	Councillors	Present
Mrs J Allen	Apologies	H Johnson	Apologies
M Banthorpe (Chairman)	Yes	Mrs J Pell	Yes
P Barlow	Apologies	B Rose	Yes
J Baugh (Vice-Chairman)	Yes	R van Dulken	Apologies
J Elliott	Yes	Mrs L Walters	Yes
J Goodman	Yes	Mrs S Wilson	Yes
A Hensman	Yes		

### 13 **DECLARATIONS OF INTEREST**

**INFORMATION:** There were no interests declared.

### 14 **MINUTES**

**DECISION:** That the Minutes of the meeting of the Licensing Committee held on 16th August 2017 be approved as a correct record and signed by the Chairman.

### 15 **QUESTION TIME**

**INFORMATION:** There were no questions asked or statements made during Question Time.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

### 16 **EQUALITY ACT 2010 – HACKNEY CARRIAGE AND PRIVATE HIRE MEDICAL EXEMPTION POLICY**

**INFORMATION:** Consideration was given to a report on a proposed Hackney Carriage and Private Hire Medical Exemption Policy to be applied to licensed drivers wishing to be exempt from the requirements of the Equality Act 2010 regarding the carriage of passengers in wheelchairs and/or assistance dogs. This matter had been discussed previously at the last meeting of the Licensing Committee.

Part 12 of the Equality Act 2010 made provision for disabled persons' transport. Section 165 of the Act placed a duty on the driver of a wheelchair accessible Hackney Carriage or Private Hire vehicle designated under Section 167 of the Act, which made it an offence for the driver not to offer reasonable assistance to a wheelchair user; to charge extra for providing any assistance; or to refuse a fare from a disabled passenger. Section 166 of the Act enabled a Council to exempt drivers from these duties where appropriate on medical grounds. The proposed Hackney Carriage and Private Hire Medical Exemption Policy would outline the process and provide guidance on how applications for medical exemption would be determined and the criteria to be used.

The policy would apply to current holders of Hackney Carriage, Private Hire, or Dual Hackney Carriage/Private Hire driver's licences issued by the Council, in addition to the Council's general requirements for medicals, and all drivers would be required to meet the group 2 medical standards of the DVLA.

It was proposed that the draft policy should be subject to public consultation for a period of six weeks, following which it would be considered by the Licensing Committee again including any representations submitted.

**DECISION:** That the draft Hackney Carriage and Private Hire Medical Exemption Policy be approved for the purpose of consultation.

**REASON FOR DECISION:** To allow Braintree District Council to control the issue of medical exemptions in relation to the Equality Act 2010.

## 17 **HACKNEY CARRIAGE AND PRIVATE HIRE CRIMINAL CONVICTIONS POLICY – POST-CONSULTATION**

**INFORMATION:** Consideration was given to a report on a proposed policy regarding criminal convictions of Hackney Carriage and Private Hire drivers/operators. The policy would provide guidance on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licence holder was a 'fit and proper' person to hold a Hackney Carriage and/or a Private Hire driver's, or Private Hire operator's licence. The overriding aim of the proposed policy was to protect the safety of the public. The draft Hackney Carriage and Private Hire Criminal Convictions Policy, which was attached to the Agenda report had been discussed at the last meeting of the Licensing Committee and had been subject to a six week period of public consultation ending on 29th October 2017.

Members of the Committee were reminded that in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, the Council was required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire driver's licence and/or a Private Hire operator's licence was a 'fit and proper' person to hold such a licence. Sections 61 and 62 of the Act enabled the Council to suspend, revoke, or refuse to renew a licence if the applicant/licence holder had been convicted of an offence, or for any

other reasonable cause. The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 enabled the Council to take account of all convictions recorded against an applicant/licence holder whether spent or not.

Representations regarding the proposed policy had been submitted by Essex County Council, Children's Safeguarding; Essex County Council, Passenger Transport; and Mr R Barden, a licensed driver. Details of the representations and the Council's response were set out in the Agenda report. Essex County Council, Children's Safeguarding had stated that the term 'child pornography' was deemed offensive and that the appropriate legal term was 'indecent images of children'. It was therefore proposed that the wording of the policy should be amended. Essex County Council, Passenger Transport had highlighted a recent change in legislation which had increased the number of DVLA penalty points issued for the use of a mobile phone device whilst driving from three to six and it was proposed that this change should be reflected in the policy.

**DECISION:** That it be **Recommended to Full Council** that the draft Hackney Carriage and Private Hire Criminal Convictions Policy, as amended, be approved.

**REASON FOR DECISION:** To provide guidance, to ensure that the Council's standards are in line with 'good practice' guidance, and to enable a more robust 'fit and proper' person test to be applied.

The meeting closed at 7.30pm.

Councillor M Banthorpe  
(Chairman)