

Cabinet



The Cabinet will meet at Council Chamber , Braintree District Council, Causeway House, Bocking End, Braintree, Essex, CM7 9HB on MONDAY 2nd FEBRUARY 2015 at 7:15pm

Membership

Portfolio	
Leader of the Council	Councillor G Butland (Chairman) Councillor T Cunningham
People and Participation	Councillor Mrs J Beavis Councillor P Tattersley
Performance and Efficiency	Councillor D L Bebb Councillor J T McKee
Place	Councillor Mrs W Schmitt (Deputy Leader of the Council) Councillor R G S Mitchell
Planning and Property	Councillor Lady Newton Councillor J O'Reilly-Cicconi

Invitees

Other invitees:- Group Leaders and the Chairmen of the Overview and Scrutiny Committee and Licensing Committee.

For enquiries on this agenda please contact:
Governance and Members Team – 01376 552525
e.mail: demse@braintree.gov.uk

This agenda is available on
www.braintree.gov.uk/Braintree/councildemocracy

Nicola Beach
Chief Executive

PUBLIC INFORMATION

Question Time

Immediately after Declarations of Interests, there will be a period of up to 30 minutes when members of the public can speak about Council business or other matters of local concern. Whilst members of the public can remain to observe the whole of the public part of the meeting, Councillors with a Disclosable Pecuniary Interest or other Pecuniary Interest must withdraw whilst the item of business in question is being considered.

Members of the public wishing to speak should contact the Governance and Members Team on 01376 552525 or email demse@braintree.gov.uk at least 2 working days prior to the meeting.

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INFORMATION FOR MEMBERS

Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest:-

- To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to paragraphs 6 to 10 [inclusive] of the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- Any member with a Disclosable Pecuniary Interest or other Pecuniary Interest to indicate in accordance with paragraphs 10.1(a)(i)&(ii) and 10.2(a)&(b) of the Code of Conduct. Such Member must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

AGENDA

No	Title and Purpose of Report	Pages
1	Apologies for Absence	
2	Declarations of Interest To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.	
3	Public Question Time (See paragraph above)	
4	Minutes of the Previous Meeting To approve as a correct record the minutes of the meeting of the Cabinet held on 1st December 2014 (copy previously circulated).	
5	OVERALL CORPORATE STRATEGY AND DIRECTION	
5a	Leader's Update The Leader of the Council to provide a brief update on key issues and activities.	
6	PERFORMANCE AND EFFICIENCY	
6a	Council Budget and Council Tax 2015/16 and Medium-Term Financial Strategy 2015/16 to 2018/19 <i>Note: Members are requested to bring their copies of the Council Budget and Council Tax 2015/16 and Medium-Term Financial Strategy 2015/16 to 2018/19 report which has been published separately.</i>	
7	PEOPLE AND PARTICIPATION	
7a	Cabinet Response to the Recommendations from the Overview & Scrutiny Committee's Task and Finish Group's Review of Options for Future Community Grant Funding Streams from April 2015	5 - 8
8	PLACE	
8a	Delegation of Powers to permit use of the Anti-social Behaviour, Crime and Policing Act 2014	9 - 19
8b	Exemption from the requirement to display an External Vehicle Identification Plate Policy	20 - 31

- 9 CABINET MEMBERS'UPDATES**
To receive Cabinet Members verbal reports on key issues within their portfolio.
- 10 REFERENCES FROM COUNCIL/COMMITTEES/GROUPS**
- 11 REPORTS/ DELEGATED DECISIONS/MINUTES TO BE NOTED**

Local Plan Sub-Committee - 12th January 2015 - Minutes to follow.
- 11a Cabinet Member Decisions made under Delegated Powers 32 - 33**
- 12 URGENT BUSINESS AUTHORISED BY THE CHAIRMAN**
- 13 EXCLUSION OF PUBLIC AND PRESS TO CONSIDER REPORTS IN PRIVATE SESSION**
for reasons set out in Paragraph 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

AGENDA – PRIVATE SESSION

No	Title and Purpose of Report	Pages
	None at the time of publication.	

Cabinet Response to the Recommendations from the Overview & Scrutiny Committee's Task and Finish Group's Review of Options for Future Community Grant Funding Streams from April 2015		Agenda No: 7a
Corporate Priority:	Encouraging flourishing communities	
Portfolio Area:	People and Participation	
Report presented by:	Cllr Joanne Beavis, Cabinet Member for People and Participation.	
Report prepared by:	Angela Verghese, Community Wellbeing Manager	
Background Papers:	Public Report	
Report and Minutes Overview & Scrutiny Committee 26 th November 2014, Minutes of Council Meeting 15 th December 2014.		
Options:	Key Decision: No	
To support or not support the proposed responses		
Executive Summary:		
At the Council meeting on 15 th December 2014, the Chairman of the Task & Finish Group presented their report which made recommendations relating to options for Future Community Grant Funding Streams from April 2015.		
Attached to this report is a summary of the recommendations made by the Committee together with the proposed Cabinet Member response.		

Decision:

That Cabinet approves the Cabinet Member responses outlined in the attached report and delegates the actions to the Corporate Director to take forward.

Purpose of Decision:

To consider and respond to the proposed recommendations made by Overview & Scrutiny Committee.

Any Corporate implications in relation to the following should be explained in detail

Financial:	If Mi Community continues for a further year (2015/2016) in line with the Cabinet Member recommendation additional budget provision of £100,000 will be required in the 2015/2016 budget.
Legal:	None.
Safeguarding	Compliance with safeguarding procedures is a condition of the Mi Community Funding Agreement signed by all successful applicants.
Equalities/Diversity	Taken into account in developing the Mi Community scheme and compliance is a condition of the Mi Community Funding Agreement signed by all successful applicants.
Customer Impact:	Local communities developing projects will continue to benefit from funding if Mi Community continues as the report recommends. If Mi Community is stopped voluntary and community groups will have to find funding from other sources.
Environment and Climate Change:	None.
Consultation/Community Engagement:	None if Mi Community continues as the report recommends or is discontinued.
Risks:	Negative PR if Mi Community is discontinued.
Officer Contact:	Angela Verghese
Designation:	Community Wellbeing Manager
Ext. No.	2329
E-mail:	angve@braintree.gov.uk

Recommendations

Task & Finish Group Recommendations	Cabinet Member's Response
<p>1. That Mi Community should be extended for a further year (2015/2016) allowing the new administration to decide on funding for community projects for 2016/17 onwards, with a strong recommendation that it continues and with consideration being given to an increased budget.</p>	<p>1. It is recognised that Mi Community has been very successful and has enabled the Council to help community projects throughout the District, as well as being a positive and productive way for the Members to engage with the local community. We therefore agree that Mi Community should be extended for a further year (2015/16) subject to appropriate provision being made in the 2015/2016 budget with a sum of £100,000 to be made available to fund community projects. Further consideration regarding the future of Mi Community for 2016/17 and beyond will be included in a wider Review of Districtwide voluntary sector funding to be undertaken in 2015/16.</p>
<p>2. That Mi Community should continue to be run in House for 2015/16 onwards</p>	<p>2. We recognise how well Mi Community has been run in house for the past 4 years, as stated in the Overview & Scrutiny Report, and agree that this should continue for 2015/16.</p>
<p>3. The amount available for Mi Community for 2015/16 should be increased by 50% to £187,000.</p>	<p>3. This represents a substantial increase in funding from previous years. Taking into account the Council's current financial position as well as the availability of alternative sources of funding that the District's voluntary sector can access, this recommendation will not be taken forward for 2015/16. A provision of £100,000 is proposed as detailed in recommendation 1 above.</p>
<p>4. That an adequate budget for the administration costs of Mi Community (approximately £10,000) is included in the 2015/16 budget</p>	<p>4. In order to implement recommendation 2 we will make provision for the sum of £10,000 for administration costs which can be accommodated within existing resources.</p>
<p>5. That consideration is given to using some of the CHIP Fund to set up a separate endowment fund under the Essex Community Foundation.</p>	<p>5. The CHIP Board has agreed to allocate £200,000 from the CHIP Fund to the Community Grants Endowment Fund managed by Essex Community Foundation. Membership of the grant allocation panel will be reviewed in order to achieve a better balance between Greenfields representatives, BDC representatives and independent panel members in 2015.</p>

<p>6. That consideration is given to investigating a joint working/match funding scheme with GCH</p>	<p>6. This will be subject to review during 2015/16. The review will look at key funding sources for the District's voluntary and community sector and how these key funders might work more closely together to increase the sustainability and viability of the voluntary and community sector. The outcomes of this review will be subject to a future report to Cabinet.</p>
<p>7. Use the existing Mi Community criteria and governance arrangements to determine applications for funding for the following reasons:-</p> <ul style="list-style-type: none"> • Assessment against stated criteria is good and rigorous • Good use of public money that can be accounted for is ensured through Mi Community process of governance • The process is continually reviewed and refined to reflect best practice 	<p>7. We acknowledge that the existing Mi Community criteria and governance have worked well. It is recommended that the Mi Community Working Group restrict the eligibility criteria for 2015/2016 by excluding Parish and Town Councils from applying for this funding. This will increase the level of funding available for voluntary and community organisations in the District.</p>

Delegation of Powers to permit use of the Anti-social Behaviour, Crime and Policing Act 2014		Agenda No: 8a
<p>Corporate Priority: Protecting our environment Supporting vulnerable people in our community Promoting safe and healthy living</p> <p>Portfolio Area: Place</p> <p>Report presented by: Councillor Graham Butland and Councillor Wendy Schmitt</p> <p>Report prepared by: Colin Batchelor, Environmental Health Manager (Housing & Pollution)</p>		
<p>Background Papers:</p> <ol style="list-style-type: none"> 1. Anti-social Behaviour, Crime and Policing Act 2014 2. Home Office publication – Antisocial Behaviour, Crime and Policing Act 2014 Reform of antisocial behaviour powers, Statutory guidance 3. Equality Impact Assessment 		Public Report
<p>Options:</p> <ol style="list-style-type: none"> 1. Decide to delegate appropriate powers to relevant staff outlined to allow use of the legislation and to decide the fee levels for fixed penalty notices issued under the legislation. 2. Not to support the proposed delegation of powers. 		Key Decision: No
<p>Executive Summary</p> <p>The Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) gives the Council new powers to protect local communities, the new powers are summarised at Appendix 1. These are new executive functions of the Council and need to be allocated by the Leader of the Council for delegation to relevant officers and Cabinet itself.</p> <p>The powers are wide-ranging and relate to a number of different Council services and functions and therefore delegations have to be allocated to Cabinet, Cabinet Members, Heads of Service and Officers.</p> <p>The new functions/powers which the Act has introduced have been summarised in Appendix 1 attached. An outline of the powers for which delegated authority is sought in each case is included in Appendix 2 attached. Other measures and tools have been included as whilst the Council may not have the responsibility for enforcement it is beneficial for Members to be aware of them.</p> <p>In addition, the Act requires that the Council set the fee levels for fixed penalty notices</p>		

issued under the Act. It is recommended that the maximum threshold is set at £100, with a £75 fee if the payment is made within 10 days.

Decisions that Cabinet:

1. Approve the Leader's Scheme of Delegations of authority as outlined in Appendix 2.
2. Approve the Fixed Penalty charges of £100 and £75 for early payment within 10 days.

Purpose of Decision:

To ensure that appropriate officers are granted the delegated authority to undertake and enforce the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 and ensure that the Council is compliant with the legislation.

Any Corporate implications in relation to the following should be explained in detail

Financial:	None.
Legal:	Ensure lawful compliance with the constitution and provide the ability to make use of the powers under the 2014 Act. This replaces some powers repealed from earlier legislation and introduces new powers to address issues previously outside the scope of legislation.
Safeguarding:	There are unlikely to be safeguarding implications.
Equalities/Diversity:	An Equality Impact Assessment has been conducted in relation to this Policy. The assessment revealed that the Policy intends to treat everyone equally
Customer Impact:	Ability to deal with some additional anti-social behaviour.
Environment and Climate Change:	None.
Consultation/Community Engagement:	The introduction of Public Spaces Protection Order requires specific consultation at the time for the particular power/restriction sought. Other powers are applied discretionarily.
Risks:	There is a risk of legal challenge if the powers provided for under the legislation are not lawfully delegated or cannot be applied.
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Designation:	Colin Batchelor, Environmental Health Manager (Housing & Pollution)
Ext. No.	2219
E-mail:	colba@braintree.gov.uk

1. **Background**

- 1.1 'Anti-social behaviour' is a broad term used to describe incidents of behaviour that fall short of incidents that would be prosecuted as general crime, nuisance and disorder that make many people's lives a misery – from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the council, police and social landlords.
- 1.2 The Anti-Social Behaviour, Crime and Policing Act 2014 has been introduced to primarily:-
- focus the response to anti-social behaviour on the needs of victims.
 - empower communities to get involved in tackling anti-social behaviour.
 - ensure professionals can protect the public quickly through faster, more effective powers and proposals to speed up the eviction of the most anti-social tenants.
 - reduce the bureaucracy associated with the exercise of existing powers.
- 1.3 The Act replaces 19 existing powers dealing with anti-social behaviour with six broader powers, streamlining procedures to allow a quicker response to anti-social behaviour. The Government envisages that these powers will make it easier for agencies and regulators to take action against anti-social behaviour and reduce repeat victimisation to protect victims and communities. A summary of these powers is contained at Appendix 1.

2. **Fixed Penalty Fees**

- 2.1 Fixed Penalty Fees - the maximum threshold set by the Act is £100; the Act also allows the local authority to set a lower amount if the penalty charge is paid within a specified period (less than 14 days). Therefore it is recommended that the fee should broadly reflect the current levels levied for those notices being repealed (i.e. litter abatement notice, street litter control notice) and it is further recommended that a reduced fee can be considered for early payment (Defra guidance). The proposal is to offer a £75 early payment fee if paid within 10 days.

3 **Key Issues**

- 3.1 The Act introduces new mechanisms with the aim of giving victims and local communities a greater say in the treatment of anti-social behaviour and low-level crime.
- 3.2 The reforms are intended to ensure that professionals from a number of agencies, dealing with a variety of antisocial behaviours, have the necessary powers but the Act by its very nature will make it a requirement that there needs to be close and coordinated working between partner organisations to tackle local incidents of anti-social behaviour.

4. Equality Impact Assessment

- 4.1 An Equality Impact Assessment has been conducted in relation to the adoption of these new powers to determine the possible implications on equality. The assessment revealed that the powers intend to treat everyone equally.

5 Recommendation

- 5.1 Amendments to the Scheme of Delegation be made to ensure that Cabinet, Cabinet Members and appropriate officers are granted the delegated authority to undertake and enforce the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 and ensure that the Council is compliant with the legislation.

Community Trigger

Purpose	Gives victims and communities the right to request a review of their case in the event that they do not feel action has been taken in relation to their complaint.
Relevant & Responsible Bodies	Braintree District Council Essex Police Mid Essex Clinical Commissioning Group Registered Social Landlords
Threshold/Test	An application has been received and the victim has made at least three qualifying complaints. If the complaint is perceived to be of a hate crime nature the threshold will be lower, at one complaint.
Who can use the Community Trigger?	A victim of anti-social behaviour or another person acting on behalf of the victim (family member, local councillor, etc.)

Community Remedy

Purpose	Gives victims a say in the out of court punishment of perpetrators for low level crime and anti-social behaviour.
Responsible Bodies	The Act places a duty on the Police & Crime Commissioner to consult with members of the public and community representatives on what actions they would consider appropriate to be on the Community Remedy document.
Who can use the Community Remedy?	Police Officer An investigating officer A person authorised by a relevant prosecutor for conditional cautions or youth cautions
Threshold/Test	The officer must have evidence that the person has engaged in anti-social behaviour or committed an offence. The person must admit to the behaviour. The officer must think that the evidence is enough for court proceedings including for a civil injunction, or impose a caution, but considers that a community resolution would be more appropriate.

Civil Injunction – due to be introduced end of January 2015

Purpose	To stop and prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate.
Applicants	Local Councils/Police/Social Landlords/Environment Agency/NHS Protect.
Test	On the balance of probabilities: behaviour likely to cause harassment, alarm or distress (non-housing), conduct capable of causing nuisance or annoyance (housing related).
Details	Injunctions issued by the County Court for over 18's and Youth Court for Under 18's. Injunctions will include prohibitions and can also include positive requirements to address underlying causes of ASB.

Criminal Behaviour Order

Purpose	Issued by a Criminal Court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals and those who are involved in criminal activity.
Applicants	Crown Prosecution Service, either of its own initiative or a request from Police or Council.
Test	The court is satisfied beyond reasonable doubt that the offender is engaged in behaviour that is likely to cause harassment, alarm or distress to a person.
Details	Issued by a Criminal Court for a criminal offence, the ASB does not need to be part of the criminal offence.

Dispersal Power

Purpose	A flexible power that can be used in a range of situations to disperse anti-social individuals and provide short term respite to the community.
Applicants	Police Officers
Test	The Police must have reasonable grounds to suspect that the behaviour of the person has contributed to members of the public in the locality being harassed, alarmed or distressed.
Details	The direction must be given in writing specifying the area to which it relates and for how long the person must leave the area for.

Community Protection Notice

Purpose	To deal with a person aged 16 +, business or organisation committing anti-social behaviour which spoils the community's quality of life.
Applicants	Council Officers, Police Officers and PCSO's and Social Landlords.
Test	The conduct of the individual, business or organisation is having a detrimental effect on the quality of life of those in the locality, is of a persistent nature and is unreasonable
Details	A written warning issued informing the perpetrator of problem behaviour, requesting them to stop and the consequences of continuing. Failure to comply with a CPN is an offence and the issuing authority can then use alternative options.

Public Spaces Protection Order

Purpose	Designed to stop individuals and groups committing anti-social behaviour in a public space.
Applicant	Local Councils in consultation with Police.
Test	Persistent or continuing nature that is unreasonable and has a detrimental effect on the quality of life of individuals and communities.
Details	Restrictions and requirements set by council, these can be blanket or targeted against certain behaviours by certain groups at certain times. Consultation must take place with Police, PCC and the community.

Closure Power

Purpose	To allow the Police or Council to quickly close premises which are being used or likely to be used to commit nuisance or disorder.
Applicant	Police, Local Council
Test	The following has occurred, or will occur of closure power is not used: Closure Notice (up to 48 hours) Closure Order (up to six months)
Details	Issued out of court in the first instance, flowing from this the order can then be applied for through the courts. The notice can close a premises for up to 48 hours out of court but cannot stop the owner accessing the premises. The order can close a premise for up to six months and can restrict access. A breach is a criminal offence.

New Absolute ground for Possession

Purpose	To expedite the eviction of landlords' most anti-social tenants to bring faster relief to victims.
Applicant	Social Landlords/Private Rented Sector Landlord
Test	The court must grant possession provided the landlord has followed the correct procedure.
Details	The new absolute ground is based on the existing mandatory grounds for rent arrears for housing association tenants.

Functions under Part 4 of the Anti-Social Behaviour; Crime and Policing Act 2014 – Community Protection Notices	Responsibility delegated to:
(i) To issue a Community Protection Notice (CPN); (ii) To serve a notice or carry out work to remedy a breach of a CPN; (iii) To issue fixed penalty notices for failure to comply with a CPN.	Head of Environment and Leisure; or their duly authorised officers
(iv) To determine the future level of fixed penalty notices for failure to comply with a CPN.	Cabinet Member for Place in consultation with the Corporate Director with the responsibility for Environmental Protection.
(v) To prosecute for failure to comply with a CPN.	Head of Environment and Leisure, Environmental Health Manager & Head of Governance.
(vi) To authorise other persons to issue Community Protection Notices.	Cabinet

Functions under Part 4 of the Anti-Social Behaviour; Crime and Policing Act 2014 – Licensing – Closure of Premises	Responsibility delegated to:
(vii) To issue, cancel or vary a closure notice covering a period of up to 24 hours; (viii) To apply for a closure order; (ix) To enforce a closure order; (x) To apply for reimbursement of costs in respect of costs incurred in clearing, securing or maintaining premises subject to a closure order.	Corporate Director with the responsibility for Licensing
(xi) To authorise officers to issue, cancel or vary a closure notice covering a period of up to 48 hours.	The Chief Executive
(xii) To prosecute for contravention of a closure order.	Corporate Director with the responsibility for Licensing; Head of Governance.
(xiii) To oversee the operation of the Community Trigger process set out in Part 6 of the Anti-Social Behaviour, Crime and Policing Act 2014 in accordance with the adopted procedures.	Head of Governance

Functions under Part 4 of the Anti-Social Behaviour; Crime and Policing Act 2014 – Public Spaces Protection Orders - (PSPO)	Responsibility delegated to:
i. To make, vary or discharge a Public Spaces Protection Order (PSPO).	Cabinet
ii. To impose a requirement in breach of a prohibition under a PSPO; iii. To issue fixed penalty notices for the offence of failure to comply with a requirement in breach of a prohibition under a PSPO.	Head of Environment and Leisure; or their duly authorised officers
iv. To determine the future level of fixed penalty notices for failure to comply with a PSPO.	Cabinet Member for Place in consultation with the Corporate Director with the responsibility for Environmental Protection.
v. To prosecute for the offence of failure to comply with a requirement in breach of a prohibition under a PSPO.	Head of Environment and Leisure, Environmental Health Manager & Head of Governance.

Functions under Part 4 of the Anti-Social Behaviour; Crime and Policing Act 2014 – General	Responsibility delegated to:
i. To seek a Civil Injunction in accordance with Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014.	Head of Governance (when this part of the Act comes into force).
ii. To request a Criminal Behaviour Order alongside a criminal conviction.	Head of Governance
iii. To oversee the operation of the Community Trigger process set out in Part 6 of the Anti-Social Behaviour, Crime and Policing Act 2014 in accordance with the adopted procedures.	Community Safety Manager (as agreed by Safer Essex)
Iv To request a Criminal Behaviour Order alongside a criminal conviction.	Head of Governance

Exemption from the requirement to display an External Vehicle Identification Plate Policy		Agenda No: 8b
Recommendation from the Licensing Committee – 19th November 2014.		Part 1 of 2
Corporate Priority:	Protecting our environment Supporting vulnerable people in our community Promoting safe and healthy living Encouraging flourishing communities	
Portfolio Area:	Place	
Report presented by:	Councillor Wendy Schmitt, Cabinet Member for Place	
Report prepared by:	John Meddings	
Background Papers:		Public Report
1. Report and Minutes of the Licensing Committee of 19 th November 2014. 2. Private Hire Plate Exemption Policy and Conditions (Appendix 1). 3. Equality Impact Assessment.		
Options:		Key Decision: No
1. The Cabinet agree that the Plate Exemption Policy be approved without amendment. 2. The Cabinet agree that the Plate Exemption Policy be approved with amendments.		
Executive Summary:		
To provide information to determine whether the Council approves the Plate Exemption Policy that will allow certain Private Hire vehicles, which are deemed to be of an “executive” type, to be exempt from the requirement to display external identification plates.		
This paper was first considered by the Licensing Committee in May 2014, it then underwent a six week consultation involving the trade and the general public. The Committee gave further consideration to the report in November 2014 following the consultation and as there were no objections the Committee recommended to Cabinet that the proposed Private Hire Vehicle Plate Exemption Policy and Conditions be approved without amendment.		

Decision
That it is recommended that Cabinet adopt the Private Hire Plate Exemption Policy attached at Appendix 1.
Purpose of Decision:
To allow the Licensing Authority to make transparent decisions on which vehicles will be considered for an exemption from displaying a plate and livery.

Any Corporate implications in relation to the following should be explained in detail	
Financial:	None
Legal:	None
Safeguarding	Exempt vehicles will not initially be identifiable as a licensed vehicle.
Equalities/Diversity	An Equality Impact Assessment has been conducted in relation to this Policy. The assessment revealed that the Policy intends to treat everyone equally
Customer Impact:	Existing holders with an exemption from displaying a plate and livery may not qualify under the new policy.
Environment and Climate Change:	None
Consultation/Community Engagement:	A 6 week consultation has taken place with the trade and the wider public.
Risks:	The current situation of not having a Policy in place leaves the Council open to challenge.
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Designation:	Licensing Officer
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E-mail:	John.meddings@braintree.gov.uk

1. **Background**

- 1.1 The displaying of the external identification plates on a licensed Private Hire vehicle and the wearing of a driver's badge is important in terms of public safety and reassurance. They indicate to the traveling public that prior to being licensed both the vehicle and the driver have been subjected to checks and ensure their safety.
- 1.2 However, there are a small number of occasions when the requirement to display external identification plates may have commercial implications.
- 1.3 The display of identification plates externally may also deter some corporate customers from using the service.
- 1.4 The Council is seeking to adopt a formal written Policy for the first time.
- 1.5 Currently, if an Operator wishes to request a plate exemption, an appointment is made with the Licensing Enforcement Officer and an inspection of the vehicle is carried out (this is in addition to the normal test carried out by the nominated vehicle inspection center). The Licensing Enforcement Officer will assess the request, establish the type of work the vehicle will be used for and will then identify if the vehicle can be issued with an exemption.
- 1.6 If the Committee adopted this Policy this will inform our customers of the Council's expectations, will lay down a Policy and will establish conditions in relation to such an exemption. In addition, the introduction of an application form and notice will ensure that these requests are formally documented.

2 **Key Issues**

- 2.1 Research has indicated that Councils who consider exemptions do so for individual vehicles only and not a fleet basis; and take into account some or all of the following factors:
 - Make and model of the vehicle;
 - The type of work undertaken by the private hire vehicles;
 - How work differs significantly from that of regular private hire work;
 - The type of customer;
 - The number of regular private hire journeys carried out by the vehicle;
 - Any relevant history of the applicant in respect of breaches of condition or legislation;
 - The cost of a vehicle is not sufficient reason alone for requesting an exemption;
 - vehicles must be of a high specification standard.
- 2.2 Where Council's grant exemption the Council will/may require one or more of the following to apply:
 - The Council will issue a written notice, which must be carried in the vehicle at all times, being used for hire and reward Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976;
 - It may require the vehicle to display a smaller less conspicuous plate, on

the rear of the vehicle (often referred to as an “Executive Plate”);

- It may require the vehicle to display a small identifying discrete plate in the style of a tax disc or similar in the window screen near to the vehicle duty licence;
- The display of ‘No Smoking’ stickers inside the vehicle is subject of other legislation and remains a condition of any exemption granted.

3. Legal and Policy Implications

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that Private Hire vehicles display an external identification plate and drivers of those vehicles wear a driver’s badge.
- 3.2 The same legislation also allows the Council to exempt the vehicles from the need to display an identification plate.
- 3.3 It is not intended that all Private Hire vehicles licensed by the Council should be exempt from the Council’s requirements to display an external identification plate; however, the Council recognises that there may be circumstances when it would be appropriate for vehicles operating the type of service to be considered suitable for such an exemption.
- 3.4 In creation of its Policy, Braintree District Council does not seek to provide a definitive list of vehicles it considers to be suitable (subject to use) for exemption from the requirement of display of external identification plates.
- 3.5 This Policy provides guidance to potential applicants on the standards of vehicle comfort and equipment that the Council considers should be the minimum standard of comfort and vehicle type before the Council would consider such an application. This Policy should be read in conjunction with the Council’s conditions relating to Private Hire vehicles and establishes additional criteria that the Council (and its Officers) will take into account when determining applications for a Private Hire vehicle to be exempt from displaying external identification plates.

4. Consultation

- 4.1 A six week consultation involving the trade and the general public has taken place. During this period we had several discussions with members of the trade regarding the potential changes but received no formal responses to the consultation.

5. Equality Impact Assessment

- 5.1 An Equality Impact Assessment has been conducted in relation to this Policy to determine the possible implications on equality. The assessment revealed that the Policy intends to treat everyone equally

6. Fees

- 6.1 The fee for a Private Hire vehicle with an exemption from displaying plates and door signage will remain the same as Private Hire without an exemption. The reduced cost of not producing the front plate and door signage is offset by the additional cost of inspecting the vehicle and administration.

7.0 Recommendation

That the Cabinet adopt the new Private Hire Plate Exemption Policy to allow the Licensing Authority to make transparent decisions on which vehicles will be considered for exemption from displaying a plate and livery.

Recommendation from the Licensing Committee – 19th November 2014		Agenda No: 8b
Exemption from Requirement to Display an External Vehicle Identification Plate Policy		Part 2 of 2
Corporate Priority:	People feel good – Supporting vulnerable people in our community, promoting safe and healthy living, encouraging flourishing communities	
Portfolio Area:	Place	
Report presented by:	Cllr M J Banthorpe, Chairman of the Licensing Committee	
Report prepared by:	Governance and Members Team	
Background Papers:		Public Report

Draft Minute Extract

Licensing Committee – 19th November 2014
Exemption from Requirement to Display an External Vehicle Identification Plate Policy

EXECUTIVE VEHICLES - EXEMPTION FROM REQUIREMENT TO DISPLAY AN EXTERNAL VEHICLE IDENTIFICATION PLATE POLICY

INFORMATION: The Committee gave further consideration to a report on the proposed introduction of a Policy to allow certain Private Hire vehicles, deemed to be of an ‘executive’ type, to be exempt from the requirement to display external identification plates on the front, rear and side of the vehicle. This matter had previously been discussed by the Committee on 14th May 2014. The draft Policy was attached at Appendix 1 to the report.

It was reported that the Local Government (Miscellaneous Provisions) Act 1976 required that licensed Private Hire vehicles should display an external identification plate. The Act also permitted local authorities to determine that vehicles should be exempt from this requirement. Whilst it was not intended that all Private Hire vehicles licensed by the Council should be exempt, it was recognised that certain vehicles might be considered suitable for exemption. The proposed Policy would provide guidance to applicants on the type of vehicle considered appropriate for an exemption and it would introduce a formal application process. The licence fee for an exempt Private Hire vehicle would remain the same as that for a Private Hire vehicle without an exemption, as the reduced cost of not producing a front plate and door signage would be offset by the additional vehicle inspection and administration costs.

The draft Policy had been subject to a six week period of consultation with the 'taxi' trade and the general public. During this period, there had been several discussions between members of the 'taxi' trade and the Council. No formal representations had been submitted regarding the proposed Policy.

An Equality Impact Assessment regarding the introduction of the proposed Policy had been completed and this was attached at Appendix 2 to the report.

DECISION: That it be **Recommended to Cabinet:-**

That the proposed Private Hire Vehicle Plate Exemption Policy and Conditions be approved without amendment.



PRIVATE HIRE PLATE EXEMPTION POLICY AND CONDITIONS

Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 “exemption from displaying plates” notice

1. Statement of intent

- 1.1 The aim of this policy is to ensure public safety whilst taking a balanced approach to licensing requirements. Its objective is the provision of an exemption to allow ‘executive vehicles’ to operate without displaying external identification plates.

2. Introduction.

- 2.1 The displaying of the external identification plate on a licensed vehicle and a driver’s badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to ensure their (the public’s) safety.
- 2.2 However, there are occasions when the requirement to display an external identification plate may have the opposite effect in terms of customer safety and could have commercial implications for the operating business. The display of Local Authority licence plates externally may also deter some corporate customers from using the service; and in some circumstances the identification of the vehicle as a licensed vehicle may allow “high risk” passengers to be more readily targeted putting both them and the driver at risk.
- 2.3 The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles display an identification plate (licence plate) and drivers of those vehicles wear a driver’s badge. The same legislation also allows Braintree District Council to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a private hire driver’s badge.
- 2.4 It is not intended that all private hire vehicles licensed by Braintree District Council should be exempt from the Council’s requirement to display an external identification plate, however the Council recognises that there may be circumstances when it would be appropriate for vehicles operating the type of service to be considered suitable for such an exemption.

- 2.5 In creating its policy Braintree District Council does not seek to provide a definitive list of vehicles it considers to be suitable (subject to use) for exemption from the requirement to display external identification plates.
- 2.6 This policy provides guidance to potential applicants on the standards of vehicle comfort and equipment that the Council considers should be the minimum standard of comfort and vehicle type before the Authority would consider such an application. This policy should be read in conjunction with the council's existing policy relating to private hire vehicles and establishes additional criteria that the Council (and its officers) will take into account when determining applications for a private hire vehicle to be exempt from displaying external identification plates.
- 2.7 Potential applicants will need to demonstrate that the vehicle will be used exclusively for executive clients and/or special occasions. Examples of these journeys Corporate Events, Conferences, Exhibitions and Meetings, Chauffeured services and School Proms

3. THE POLICY

- 3.1 Exemptions from displaying external identification plates (vehicle licence plates) may be in respect of individual vehicles only. Applications for exemptions relating to a fleet of vehicles will not be allowed.
- 3.2 Each application will be assessed on its own merit and each vehicle will be inspected by an authorised council officer to ensure that it is fit for purpose.
- 3.3 Applications for exemption from the requirement to display an external identification plates on the front and rear of a private hire vehicle along with side stickers may be considered where the following requirements are met;
- Vehicles may be of any colour.
 - The vehicle to be exempted is of a high quality both in terms of brand and condition.
 - A vehicle presented for a licence is to be no older than 3 years at first application (this shall include any change of vehicles in respect of an existing licence). The age of the vehicle will be taken from the vehicle registration document or in case of imported vehicles from the relevant importation certificates. (If the applicant feels that their vehicle should be an exception to the age limit, the application will be referred to a Sub Committee of the Licensing Committee). Once the exemption has been approved it can then be maintained beyond the 3 years providing that it continues to meet the rest of the policy standards.
 - Limousines presented for a licence are to be no older than 10 years at first application (this shall include any change of vehicles in respect of an existing licence). The age of the vehicle will be taken from the vehicle registration document or in case of imported vehicles from the relevant importation certificates. (If the applicant feels that their vehicle should be an exception to the age limit, the application will be referred

to a Sub Committee of the Licensing Committee). Once the exemption has been approved it can then be maintained beyond the 10 years providing that it continues to meet the rest of the policy standards.

- Vehicles will be larger than the Ford Mondeo class vehicles and will normally be the accepted luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus. The highest specification executive type cars from other manufacturers may also be considered. American style stretched vehicles may also qualify for exemption.
- The vehicle will be in an immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim.
- The vehicle is to be used for executive or special occasion work only, good examples of these are:
 - Transport to and from Business Corporate Events, Conferences, Exhibitions and Meetings
 - Chauffeured services
 - School Proms

3.4 Applications may only be made by a person holding a private hire operator's licence issued by Braintree District Council.

3.5 Where a proprietor wishes to make an application for a vehicle to be exempt from displaying an external identification plate they will be required to complete the appropriate section on the vehicle application form.

3.6 The Council may require applicants to provide any additional documentation as reasonably necessary to allow the Council to make an informed decision. Where such documentation is not provided to the satisfaction of the Council the application will be refused.

3.7 Where an application is granted and a vehicle is exempted from displaying its external identification plate an exemption notice will issued as soon as practical after the decision is made

3.8 Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicles current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for a period of time that is coterminous with that vehicle's private hire licence unless either the licence or notice is otherwise surrendered or revoked.

3.9 Exemption notices may be renewed annually subject to the vehicle undergoing a re-inspection by a Licensing Officer to ensure that it continues to be fit for purpose.

3.10 The authority to determine any application for an exemption notice is by virtue of this policy delegated to the Council's Licensing Officer.

- 3.11 In the event of an applicant being dissatisfied with the decision of the officer, the applicant may make a written application for a review of the decision by a Sub Committee of the Licensing Committee.
- 3.12 Other than where to do so would conflict with the requirements of this policy, all vehicles granted an exemption notice must, in addition to the requirements of this policy, comply with the requirements for private hire vehicle.

4. FEES

- 4.1 The fee for a Private Hire vehicle with an exemption from displaying plates and door signage will remain the same as Private Hire without an exemption. The reduced cost of not producing the front plate and door signage is offset by the additional cost of inspecting the vehicle.

5. CONDITIONS

THE BELOW CONDITIONS APPLY TO ALL PRIVATE HIRE VEHICLES GRANTED AN EXEMPTION BY BRAINTREE DISTRICT COUNCIL FROM THE REQUIREMENT TO DISPLAY AN EXTERNAL IDENTIFICATION PLATE, AND ARE IN ADDITION TO THE CRITERIA AND CONDITIONS SET OUT IN THE PRIVATE HIRE CONDITIONS.

- a) The identification plate and exemption notice provided by the Council pursuant to requirements of the Local Government (Miscellaneous Provisions) Act 1976 shall remain the property of the Council.
- b) Any vehicle granted an exemption from displaying an external identification plate will be required to have the identification plate normally displayed on the rear of the vehicle affixed to the inside of the boot lid. The plate when so affixed **must** be readily visible when that boot lid is raised.
- c) In the event of loss or damage rendering such plate or notice unserviceable the proprietor shall make immediate application for a replacement.
- d) The exemption notice issued by the Council will be carried in the vehicle at all times and will be produced upon request to an authorised officer of the Council or any Police Officer.
- e) When operating under the exemption notice the windscreen badge issued by the licensing authority will be displayed at the nearside of the front windscreen at all times.
- f) The proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle's status as a private hire vehicle.

- g) During the period of the exemption notice the driver of the vehicle whilst engaged on private hire work will be smartly dressed in either a formal chauffeur's uniform or a business suit with collar and tie.
- h) The proprietor shall within one working day notify the Council of any change in the use of the vehicle.
- i) The proprietor shall not use the vehicle for private hire purposes other than for executive use (i.e. not for 'normal' airport journey's or daily private hire use).
- j) The driver and passenger front side window glass and the front windscreen must be clear. However, tinted windows can be fitted to the side and rear window glass of the vehicle provided that they comply with current legislation.
- k) The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the council of the sale/transfer of ownership immediately and in writing, and provide details of the new owner. The exemption notice must be returned to the Council along with the private hire vehicle identification plate unless being sold to another private hire operator licensed by the Council; in which case, only the exemption notice has to be returned.
- l) A taximeter will not be installed in the vehicle.

Cabinet Member Decisions made under Delegated Powers	Agenda No: 11b
Portfolio Area: Report presented by: Not applicable – For noting only Report prepared by: Emma Wisbey, Governance and Member Manager	
Background Papers: Cabinet Decisions made by individual Cabinet Members under delegated powers.	Public Report
Options: For noting only	Key Decision: No
Executive Summary: All delegated decision taken by individual Cabinet Members are required to be published and listed for information on next Cabinet Agenda following the decision. Since the last Cabinet meeting the following Cabinet Members have taken delegated decisions:- Councillor Wendy Schmitt –Cabinet Member for Place - Decision taken on 12th December 2014. To agree and approve the use of £6,000 from the S106 funding allocated to Great Notley Country Park to fund the following improvement works at the site:- <ul style="list-style-type: none"> • Construction of non-slip footpaths linking to the existing seating area adjacent to the Discovery Centre café dining area, with handrails to the sloping sections and surface improvements to the existing footpath network across the site. Councillor Wendy Schmitt –Cabinet Member for Place - Decision taken on 17th December 2014. To endorse and approve the TEEP (Technically, Environmentally and Economically Practicable) Assessment in relation to comingled recycling collections and confirm that approval is given to maintain the existing collection arrangements. Cabinet Decisions made by individual Cabinet Members under delegated decisions can be viewed on the Access to Information page on the Council's website. www.braintree.gov.uk	

Decision:	
For Members to note the delegated decisions	
Purpose of Decision:	
The reasons for each decision can be found in the individual Delegated Decisions.	
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