

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

1 FEBRUARY 2007

**REPORT OF
CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION

Corporate - Lead Cabinet Member - Councillor Coleman

COMPLAINT TO THE LOCAL GOVERNMENT OMBUDSMAN

1. Summary

The Local Government Ombudsman has issued a report following an investigation into a complaint about the Council's handling of applications for the licensing of Hackney Carriage Vehicles. The issues about which the complainant was aggrieved also apply equally to the licensing of Private Hire Vehicles. The Ombudsman has found that although the Council was entitled to change its practice there was maladministration which resulted in the complainant suffering injustice. The Council is therefore required to consider the Ombudsman's report and let the Ombudsman know what action it proposes to take as a result of the findings.

A copy of the investigation report has been placed in the Members' Library and this report summarises the main issues and recommends the proposed action to be taken as suggested by the Ombudsman.

The Ombudsman is not permitted to name or identify the complainant or individuals in her report and therefore the names used in this report are not the real names of the people and the places involved.

2. Recommendations

It is recommended that:-

1. The Council should offer £250 compensation to the complainant to cover his time and trouble in bringing the complaint;
2. A representative of the Licensing Section:-
 - consult in writing with the whole of the taxi trade within the Borough on the suggested compromise solution put forward by the trade associations, namely that Vehicle Licences be issued prior to providing a V5 document in the applicants name and if the V5 document is not presented to the Council within a period of 28 days from issue of the Licence then the licence be automatically suspended until the V5 is produced.

- an accurate report of the consultation and the Council's response to the proposal be published in the Trade Times;

3. The Ombudsman is notified of the action taken in response to the report.

3. Reasons for the Recommendations/Decision(s)

To ensure that all Members of the Council are informed of the Ombudsman's findings and the action to be taken in response to the complaint.

4. Members Interests

Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.

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SUMMARY

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RECOMMENDATIONS

It is recommended that:-

1. The Council should offer £250 compensation to the complainant to cover his time and trouble in bringing the complaint;
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 - an accurate report of the consultation and the Council's response to the proposal be published in the Trade Times;
3. The Ombudsman is notified of the action taken in response to the report.

DETAIL

1. The Ombudsman has completed an investigation into the way the Council changed its procedure in relation to the licensing of hackney carriage vehicles.
2. A copy of the report has been made available for public inspection at the Council's Offices and a notice was published in the Evening Gazette and Northern Echo on 14 December 2006 as required by the Local Government Act 1974. A copy has also been placed in the Members Library.
3. When applications are made to licence a vehicle as a taxi the Council requires the owner of the vehicle to produce the V5 registration document or log book. This provides evidence of:-
 - Who the registered keeper is;
 - Previous accident damage resulting in an insurance 'write off';
 - Chassis and engine numbers that may help indicate whether the vehicle has been stolen or stolen parts have been fitted
4. Until 1st April 2005 the Council would issue taxi licences for used vehicles pending later production of the V5 document by the owner. Experience showed that many drivers would not produce their V5 documents and licensing staff were then required to send reminder letters requesting that the document be produced.
5. The Council therefore decided to tighten up the practice by accepting applications for the licensing of vehicles but not issuing the licence plate until the owner of the vehicle produced the V5 document showing him as the registered keeper.
6. The Ombudsman concluded that the previous practice did cause the Council problems and it was entitled to change it. However the Ombudsman criticised the Council for failing to adequately consult with trade associations about the proposed change and to give proprietors and drivers reasonable advance notice of the change. The Ombudsman concluded that this constituted maladministration. The Ombudsman also concluded that maladministration had occurred as the Council should have drafted an article in the Trade Times more carefully as it gave the misleading impression that the taxi associations were aware of the change in advance and had agreed to it.
7. The Ombudsman found that the Complainants had suffered injustice as a result of maladministration. The maladministration related to:-
 - failing to consult the associations contrary to its policy and publicity;
 - failing to give taxi drivers adequate notice;
 - publishing a misleading article implying that the associations had agreed to the change
8. In compiling her report, the Ombudsman has looked into the issues surrounding the production of V5 document by the Complainant during 2004. The Complainant has provided to the Ombudsman an amended V5 which appears to be date stamped by the Council as having been received by the Council on 29 June 2004. The V5 in question is not date stamped on the front page, as is standard practice for Council staff, but on the third page. The Complainant in question has convictions for making a false statement to obtain insurance and for using a document with intent to deceive. It is not clear why, if the Complainant had a date stamped V5 document in his possession from 29 June 2004, he did not produce this at an earlier stage in order to resolve the argument in his favour. The Ombudsman appears not to have addressed these issues. The Ombudsman also states in her response that "In the course of this investigation both the Council and [the Complainant] have provided me with information which subsequently was shown to be incorrect". From the Council's point of view, the accuracy of this statement is disputed, and the Ombudsman

has been asked to clarify to what information she is referring in this passage, but has not responded to this request.

9. The Ombudsman recommended the payment of the sum of £250 as compensation for the time and trouble in the Complainant bringing the complaint. It should be noted that the Complainant was not entitled to any sum for alleged loss of earnings.
10. The Ombudsman also urged the Council to meet with the trade associations to discuss their compromise proposal. The trade associations have a membership of 150 whilst the Council licences 700 persons. As the trade associations do not represent all taxi drivers within the Borough it is proposed that as part of a wholesale review of licensing policy the compromise proposal be included in a written consultation exercise to allow all members of the trade, including the trade associations, to be consulted. Following the consultation and the review of licensing policy a report will be included in the Trade Times which is circulated to all members of the licensed taxi trade including the trade associations.
11. The Head of Community Protection has endorsed the suggested remedy and will take the recommended action.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

12. The recommended payment of £250 is proposed to be paid out of the Transport Licensing budget.

Legal

13. The Cabinet report and the recommendations satisfy the requirements of the Local Government and Housing Act 1989 (Section 5A) and the Local Government Act 1974 (Section 31(2)).

RISK ASSESSMENT

14. The failings identified in the report represent a low risk as the review of licensing policy will enable all members of the trade to give their views.

CONSULTATION INCLUDING WARD COUNCILLORS

15. The findings of the Ombudsman's report are not ward specific but have been brought to the attention of Officers, the Chair of Licensing Committee and relevant Cabinet Member and are available for inspection by all other Members. The report has also been discussed with the Head of Community Protection. The Ombudsman's report has been made available for public inspection following the publication of a notice in the Evening Gazette and the Northern Echo.

Principal Solicitor

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Background Papers:	Ombudsman's report
Ward(s) and Ward Councillors:	Chair of Licensing Committee and the Cabinet Member have been informed of the findings of the Ombudsman's report
Property Implications:	None