

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

29 NOVEMBER 2012

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Housing and Community Safety – Lead Cabinet Member – Councillor Nelson

THE PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY - AMENDMENT

1. Summary

The purpose of this report is to seek Cabinets approval to amend the Private Hire and Hackney Carriage Licensing Policy in respect of Appendix P to resolve conflicts between the contents of the policy and that appendix.

2. Recommendations

1. That the proposal to replace Appendix P of the Private Hire and Hackney Carriage Licensing Policy with the revised version presented at **Appendix One** to this report be approved.

3. Reasons for the Recommendations/Decision(s)

The reasons for the recommendation being supported are to ensure that the policy reflects the decision agreed by the Licensing Committee at Minute 43/10; the results of the consultation with the trade and interested stakeholders and the legislative requirements.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, 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 and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or

- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

The purpose of this report is to seek Cabinets approval to amend the Private Hire and Hackney Carriage Licensing Policy in respect of Appendix P to resolve conflicts between the contents of the policy and that appendix.

RECOMMENDATIONS

1. That the proposal to replace Appendix P of the Private Hire and Hackney Carriage Licensing Policy with the revised version presented at **Appendix One** to this report be approved.

DETAIL

1. On 19 April 2012 Cabinet approved the revised version of the Private Hire and Hackney Carriage Licensing Policy following consultations with the trade and other interested stakeholders (minute 5/12 refers).
2. The revised version contained new provisions relating to the licensing of horse drawn hackney carriages and their drivers and included a new appendix P detailing conditions that would apply to such licences. These provisions had been determined following a previous report to the Licensing Committee and a consultation exercise with the trade and interested stakeholders.
3. It has now come to light that an incorrect version of Appendix P was included in the policy document submitted to and approved by Cabinet. This does not reflect what the policy intended to achieve and in relation to the qualifications in respect of drivers is in conflict with both the policy and statutory requirements.
4. It is proposed therefore that Appendix P in the policy be replaced with a new version, as attached at **Appendix One** to this report.

FINANCIAL IMPLICATIONS

5. None

LEGAL IMPLICATIONS

6. The policy conditions relating to drivers of horse drawn hackney carriages do not comply with current legal requirements in respect of driving licence requirements and could be subject to

challenge. Any person aggrieved by the policy proposals has a legal right to challenge by way of judicial review

RISK ASSESSMENT

7. The proposed amendment to the Private Hire and Hackney Carriage Licensing Policy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

8. The Hackney Carriages and Private Hire licensed vehicles and drivers have an important part to play in the provision of transport in the area. Appropriate licensing conditions assist in ensuring that the trade can play its part effectively.

Community Safety/Safer Communities

9. Appropriate licence conditions, vetting of licensees, enforcement of licensing conditions and legislation ensure the safety of the general public and protect reputable traders.

EQUALITIES IMPACT ASSESSMENT

10. The previous report on the adoption of the revised policy was subject to an Equality Impact Assessment and was judged to have a positive impact.

CONSULTATION INCLUDING WARD/COUNCILLORS

11. All licensees and interested stakeholders were consulted on the proposed conditions relating to horse drawn hackney carriages and their drivers following the original report to the Licensing Committee in 2010 and again when the consultation exercise on the policy review was conducted. Chairman of the Licensing Committee has been consulted on this matter and is happy for the mistake to be resolved by Cabinet.

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Education related? No

Background Papers :The Private Hire and Hackney Carriage Licensing Policy

Ward(s) and Ward Councillors: Not ward related

Property: Not applicable

Replacement Appendix P

CONDITIONS RELATING TO THE LICENSING OF HORSE DRAWN CARRIAGES (LANDAUS) AND THEIR DRIVERS

Making an Application - Essential Requirements

- 1) Prior to a vehicle licence being issued the applicant, being the proprietor of the vehicle, shall: -
 - a) Complete and submit to the Council an application on the prescribed form together with the required licence fee.
 - b) Pay the required licence and associated inspection/vets fees. (NOTE: fees for carriage driving tests and the inspection of carriages and horses are the responsibility of the applicant.) If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void. Licence fees are non-refundable.

Conditions of Licence

- 2) The proprietor of any licensed carriage shall ensure that the Conditions of Hackney Carriage Vehicle Licence are complied with together with the following additional conditions: -

The Vehicle - External Construction and Markings

- 3) The vehicle shall be purpose built and suitable for the carriage of passengers.
- 4) The vehicle and tack shall be inspected and approved as appropriate for use as a hackney carriage prior to licensing and then at six monthly intervals by an examiner approved by the Council.
- 5) Licensed carriages including all its fittings and equipment must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference only and does not constitute a definitive list of matters that may be considered to evaluate whether a carriage is in a good condition:
 - a) Body shell/paintwork – free from rust, broken metal and other visible damage;
 - b) Door hinges – shall be in good working order and to be seated correctly when closed;
 - c) The carriage/horse must be fitted with such equipment as to be able to collect and retain horse manure, water and feed for the animal.
 - d) All tack and fixtures must be kept in good order and be available for inspection by authorised officers.

The Vehicle - Internal construction and markings

- 6) The carriage shall meet the following minimum measurements:-
 - a) Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450mm.

- b) In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760mm.
 - c) Seats (width) – The shortest distance between the edges of a seat shall be no less than 400 mm. Where the rear passenger seating area is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of a passenger, the above measurement shall be ascertained by measuring the distance between seatbelt anchorages (if applicable).
- 7) Floor and seat coverings shall be kept in good condition and be free of holes, stains or other damage at all times.
 - 8) A safe means of access and egress from the vehicle (e.g. a step and secure hand holds) shall be provided
 - 9) Blankets shall be provided for the comfort of passengers.

The Vehicle - Additional Conditions

- 10) A vehicle licence applies solely to the vehicle specified on the licence and will be valid for a period of one year.
- 11) Each carriage shall be fitted with a tag, mark or similar device carrying a unique identification number.
- 12) The licensed carriage shall display a front and rear licence plate as instructed by the Council.
- 13) The licence and associated plates shall remain the property of the Council at all times.
- 14) The proprietor of a licensed vehicle shall:
 - i) Produce the licensed vehicle for inspection at the request of any authorised officer or police constable
 - ii) Comply with any reasonable request made by an authorised officer or police constable in respect of that vehicle
 - iii) The carriage must have a valid policy of insurance in respect of use as a hackney carriage; third party risks and a minimum of £5,000,000 public liability insurance.
 - iv) The carriage may only be used on previously approved routes and waiting and pick up locations will be subject to approval by the Council.

The Horse

- 15) The horse(s) must be a minimum of three years old.
- 16) A Veterinary Certificate signed by an Veterinary Surgeon approved by the Council stating that each horse is fit to carry out the work required of it shall be submitted to the Council as part of the application process
- 17) Horses must be appropriately shod at all times.

- 18) If a horse is considered to be lame, or in any other way unwell so as to affect the ability of the horse to carry out the function, it shall be removed from service immediately.
- 19) Horses must be provided with regular access to drinking water and food.
- 20) The horse(s), and its associated tack, must be examined and passed as fit for the task involved, by a Council appointed qualified veterinary surgeon who may also advise the authority on the maximum number of hours that a horse may work.
- 21) The local authority shall require the horse(s) to be examined by a Council appointed qualified veterinary surgeon on an annual basis, at time of renewal of the licence and at the licence holder's expense.
- 22) Certified horses should be easily identified by means of microchip or permanent marking.
- 23) The horse(s) must have a current passport.
- 24) The horse(s) should be stabled in appropriate accommodation with access for inspection at all reasonable times.
- 25) Any horse used in any one day as a horse drawn carriage horse shall not be used during that day for any other purpose.
- 26) No horse(s) shall be used for drawing a carriage during the hours of darkness.
- 27) Sufficient horses must be provided to draw the licensed carriage for the period of intended use.

The Driver

- 28) The driver of the carriage must be a licensed hackney carriage driver and produce the following additional certificates before driving the carriage:
 - i) Suitable qualification demonstrating a knowledge of the most common horse ailments and basic knowledge of the horses general needs/requirements.
 - ii) Road Driving Certificate issued by either the British Driving Society or the Heavy Horse Training Committee, passing the driver as capable of handling the horse and carriage under highway conditions.

Fares

- 29) The Council must be notified of and agree the fares to be charged for each approved route.
- 30) Fares shall not be varied without prior approval of the Council.
- 31) A table of authorised maximum fares shall be displayed in each carriage so that it is easily visible to the hirer.