



Please ask for Brian Offiler
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The Chair and Members of Appeals
and Regulatory Committee

13 September 2016

Dear Councillor,

Please attend a meeting of the APPEALS AND REGULATORY COMMITTEE to be held on WEDNESDAY, 21 SEPTEMBER 2016 at 10.00 am in Committee Room 1, Town Hall, Chesterfield, S40 1LP, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

1. Declarations of Members' and Officers' Interests relating to Items on the Agenda
2. Apologies for Absence
3. Minutes (Pages 3 - 8)

Minutes of the Meeting of the Appeals and Regulatory Committee held on 3 August, 2016.

4. Tattoo Hygiene Rating Scheme (A360) (Pages 9 - 12)

Yours sincerely,

A handwritten signature in black ink, appearing to be "Brian Offiler".

Local Government and Regulatory Law Manager and Monitoring Officer

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APPEALS AND REGULATORY COMMITTEE

Wednesday, 3rd August, 2016

Present:-

Councillor Derbyshire (Vice-Chair, in the Chair)

Councillors Bexton
Bingham
Brady
A Diouf

Councillors Hitchin
A Murphy
Parsons
Rayner

*Matters dealt with under the Delegation Scheme

43 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS RELATING TO ITEMS ON THE AGENDA

No declarations of interest were received.

44 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bellamy, Dean Collins, Lisa Collins, Peter Innes and Niblock.

45 HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY - AMENDMENTS (A410)

The Licensing Manager submitted a report for Members to consider proposed amendments to the Hackney Carriage and Private Hire Licensing Policy, in respect of non-Chesterfield hackney carriages being used as private hire vehicles within the controlled district of Chesterfield Borough Council together with subsequent changes to the requirements for new drivers and a trade proposal to defer Driving Standards Agency (DSA) driving tests, and of training in child sexual exploitation (CSE).

The proposed amendments aimed to safeguard public safety while balancing the requirements for Chesterfield drivers against those from other authorities.

The report set out the background to the proposed amendments arising from a challenge to the Council's existing policy of only allowing operators licensed by Chesterfield Borough Council to use drivers and vehicles licensed by the Council. This challenge had resulted in non-Chesterfield hackney carriages being able to operate as private hire vehicles within the controlled area of Chesterfield Borough Council. The Council had no enforcement powers over such non-Chesterfield vehicles and drivers unless a criminal offence was committed. It was noted that this was an issue for licensing authorities nationally.

Some private hire operators had argued that the more stringent requirements to be met by applicants for a combined hackney carriage and private hire driving licence in Chesterfield forced them to recruit drivers licensed by other authorities.

Most of the non-Chesterfield hackney carriages were licensed by Rossendale Borough Council, which had now introduced an 'Intended use Policy' requiring applicants for a new hackney carriage vehicle licence to use the vehicle predominantly in the Borough of Rossendale and to be resident within 30 miles of the council boundary. Chesterfield Council officers had developed an information sharing system with their Rossendale colleagues where there was clear evidence of a hackney carriage working predominantly outside Rossendale to enable Rossendale to consider revoking the licence.

These issues had been the subject of consultation through the Taxi Consultative Committee and with local private hire operators, and the report set out a number of options to address this, including:

- A voluntary code of conduct for private hire operators to take responsibility for the behaviour of non-Chesterfield hackney carriage drivers while working locally on a private hire basis (attached as Appendix A to the report);
- Having separate private hire and hackney carriage driving licences, with a simplified practical test of geographical knowledge but not a written geography test for private hire drivers. Private hire drivers would then only be eligible to drive private hire vehicles, not hackney carriages. The application process for hackney carriage drivers would remain the same and a hackney carriage licence would allow the holder to drive both hackney carriages and private hire vehicles.

Ms M Shaw, proprietor of Shaws Taxis and Chairperson of Chesterfield Hackney Owners Association, addressed the meeting in respect of delays experienced in arranging DSA tests, as required for Chesterfield applicants, which she felt was contributing to operators looking to recruit non-Chesterfield hackney drivers. She had proposed that provision be made to issue a temporary licence for a maximum of three months to allow time for the DSA test to be taken. The Licensing Manager proposed that this should be at the discretion of officers based on the availability of a test, the efforts of the driver or operator to obtain a test date and the driving history of the applicant and not based on the inability of the applicant to pass the test.

It was noted that a training package on child sexual exploitation (CSE) awareness had been developed and was being delivered to taxi drivers, with the issue also being incorporated into the knowledge test for new applicants. The Licensing Manager proposed that this training should be mandatory with sanctions to be applied where drivers failed to attend within a reasonable time period without reasonable excuse.

Members expressed concern at the limited scope for the Council to take action as the local licensing authority in respect of non-Chesterfield hackney carriage drivers within the national legislative framework and were of the view that this needed to be addressed at a national level.

In response to Members' concerns and questions, it was confirmed that:

- complaints of poor service, such as drivers not being familiar with the area, were taken up with the responsible operator;
- operators were required to maintain booking records, including details of vehicles and drivers used, which the Council's enforcement staff could inspect to determine if non-Chesterfield drivers were working predominantly out of the area in which they had been licensed;
- all taxi drivers licensed across the country were required to produce an enhanced DBS check of previous criminal convictions as part of the application process;

- vehicles licensed in Chesterfield were checked every six months and were generally in good condition; vehicles licensed in Rossendale were checked annually.

*** RESOLVED –**

- (1) That the Hackney Carriage and Private Hire Licensing Policy be amended as follows:
 - (a) A voluntary code of practice for private hire operators be adopted and included within the policy (as set out in Appendix A to the report);
 - (b) Schedule 7 of the policy be amended to allow the use of non-Chesterfield hackney carriages as private hire vehicles within the controlled area of Chesterfield Borough Council;
 - (c) The option of a separate driver's licence for a private hire or hackney carriage vehicle be offered within the policy - a private hire driver's licence to permit the holder to drive only private hire vehicles; a hackney carriage driver's licence to permit the holder to drive both hackney carriage and private hire vehicles;
 - (d) Applicants for a private hire driver's licence to not be required to take the written paper on geographical knowledge but to pass a simplified practical test of their geographical knowledge; the application process of obtaining a hackney carriage driver's licence to remain unchanged;
 - (e) Officers to be given authority to defer the requirement to pass a DSA driving test for a maximum of three months, during which time the applicant could drive a licensed vehicle - this decision to be based on the availability of a test centre, the efforts made to obtain a test appointment and the driving history of the applicant, not on the inability of the applicant to pass the test;
 - (f) If a licensed driver fails, without reasonable excuse, to attend a child sexual exploitation awareness session within a reasonable time period, officers be given authority to issue 12 penalty points and refer the driver to the Appeals and

Regulatory Committee for determination as to whether they remain a fit and proper person.

- (2) That the above amendments to the Hackney Carriage and Private Hire Licensing Policy commence with effect from 1 September 2016.

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FOR PUBLICATION

Tattoo Hygiene Rating Scheme (A360)

MEETING:	APPEALS AND REGULATORY COMMITTEE
DATE:	21st SEPTEMBER 2016
REPORT BY:	SENIOR EHO – Catherine Bromhall
WARDS:	ALL

FOR PUBLICATION

Background Papers - All relevant documentation is available on M3 and may be inspected at the Environmental Health Department, OSD, Chesterfield

1.0 PURPOSE OF REPORT

- 1.1 To request approval to put measures in place to charge for re-rating inspections.

2.0 BACKGROUND

- 2.1 The Tattoo Hygiene Rating Scheme is a hygiene ratings scheme originally introduced in Wales. It is now being rolled out by councils across England.
- 2.2 Tattoo businesses are being rated on how hygienic they are under a new voluntary scheme designed to drive up standards.
- 2.3 Tattooing has become increasingly popular in recent years, particularly among young adults and adolescents. It is becoming more popular with males and females alike.
- 2.4 The Local Government (Miscellaneous Provision) Act 1982 enables local authorities in England and Wales to adopt powers to control tattooing by requiring persons undertaking these activities as a business to register with the local authority and comply with by-laws. This legislation is enforced by unitary and district councils.

2.5 The potential health risks arising from tattooing are well documented and include:

- Infection risk from normal bacterial 'flora' of the skin. The majority of such infections are localised but they can result in secondary infections like cellulitis, sepsis, abscess, endocarditis, and gangrene.
- Infection from exposure to blood borne viruses, particularly Hepatitis B and C, from equipment if it is not sterilised correctly
- Allergic reactions from the materials used in some of the dyes and inks.

2.6 Benefits from implementing the scheme would be:

- Inform the public about the hygiene standards in the premises at the time of the most recent inspection.
- Drive up standards and adoption of best practice across the industry for example requiring documentary proof that the person wishing to be tattooed is 18 years old and above.
- Reduce the risk of incidents of infection and transmission of infectious diseases from tattooing procedures.

2.7 Participating premises will be allocated a rating from 1 (Improvement Needed) to 4 (Very Good) following an Environmental Health inspection. That rating can be displayed on-line and in the premises in certificate form and on the window of the premises in the form of a window sticker (similar to that used in the Food Hygiene Rating System).

2.8 The scheme is a voluntary scheme. Across Derbyshire there are 137 registered premises offering tattooing.

2.9 The scheme will be coordinated centrally by the Derbyshire Health Protection Team within Public Health, and the district, borough and city council Environmental Health Teams will undertake the inspections of participating businesses and promote the scheme within agreed guidelines.

2.10 Chesterfield Borough Council will be paid £60 by Derbyshire County Council public health team to inspect each business that chooses to participate in the scheme. There will also be incidental costs such as postage and the costs of the stickers.

3.0 OTHER CONSIDERATIONS

- 3.1 I confirm that there are no such implications from this particular report in relation to: HR, financial, legal and data protection, consultation, risk management and equalities.
- 3.2 The ratings have already been introduced in Wales and are now being rolled out by councils in England.
- 3.3 All premises offering tattooing within Local Authority administrative area are eligible to apply to participate in the THRS.
- 3.4 Application to join the scheme constitutes acceptance of the Rules of the Scheme.
- 3.5 Irrespective of any other services offered by the premises the THRS shall apply to the tattooing procedure only.
- 3.6 Tattooing premises will be rated by the inspecting officer in accordance with the rating scheme following a programmed or initial inspection carried out under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.7 Should the inspecting officer find at the initial inspection that remedial works or action is required, the rating may be deferred. The operator will then be given time to take actions as required. The premises shall be rated upon completion of the works.

4.0 REQUESTS FOR RE-RATING

- 4.1 The purpose of the THRS is to raise standards within the tattoo sector. Operators may therefore wish to improve their THR by carrying out such works as may be necessary to progress up the ratings. Local authorities should encourage progression. Requests for re-ratings should not be accepted for 3 months after the programmed Local Government (Miscellaneous Provisions) Act 1982 inspection has been carried out – in effect operators should have to ‘live with’ the rating they are awarded for a period of time before they can be re-rated.

Operators will not be keen to carry out such works or demonstrate embedded practices as may be required to progress through the ratings if they will be required to wait until their programmed inspection to be re-rated, therefore where works have been carried out local authorities should accede where possible to requests to re-rate the premises, subject to 3 months having elapsed since the last programmed inspection and rating visit.

- 4.2 Where premises are re-rated a new THRS Certificate and Window sticker should be awarded and websites amended.

- 4.3 Where a premises has been re-rated the 'new' rating will last only until the next programmed inspection at which point the rating will be reviewed in accordance with the scheme.
- 4.4 If a request for re-rating is made and the local authority does not have the capacity or resources to carry out a re-rating visit the operator should be advised accordingly. If, in the view of the local authority the period between the request for re-rating and the next programmed inspection is sufficiently short the request should be denied and the operator advised that the rating will be considered at the time of the next programmed inspection.
- 4.5 Local authorities are asked where possible to accede to request for re-rating to encourage improvements in standards and maintain tattoo premises operators' confidence in the scheme.
- 4.6 In coordination with DCC Public Health and other Derbyshire LAs a decision was made that each LA would implement their own fee for re-rating inspections.
- 4.7 CBC officers have calculated that £40 should be applied as a re-rate fee to cover costs of officer revisiting premises. This is in line and consistent with other LAs in Derbyshire participating in the scheme.

5.0 EQUALITIES SECTION

- 5.1 The equality and diversity has been considered during the development of the scheme and no negative impacts for protected groups have been identified.
- 5.2 The overall impact for the community is positive with respect to health and safety.

6.0 RECOMMENDATIONS

- 6.1 It is recommended that the Committee notes the contents of this report and after consideration:
- i) Agrees to a new charge of £40 being applied for re-rating of premises in the scheme if required.

Catherine Bromhall
Senior Environmental Health Officer