



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

20 June 2017

Dear Councillor,

Please attend a meeting of the APPEALS AND REGULATORY COMMITTEE to be held on WEDNESDAY, 28 JUNE 2017 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 - 6)

Minutes of the Meeting of the Appeals and Regulatory Committee held on 17 May, 2017.

4. Hackney Carriage and Private Hire Licensing Policy - Amendments (A410) (Pages 7 - 14)

Yours sincerely,

A handwritten signature in black ink, appearing to be "B. Offiler", written over a white background.

Local Government and Regulatory Law Manager and Monitoring Officer

Chesterfield Borough Council, Town Hall, Rose Hill, Chesterfield S40 1LP

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## **APPEALS AND REGULATORY COMMITTEE**

**Wednesday, 17th May, 2017**

Present:-

Councillor Bellamy (Chair)

Councillors Bexton  
Bingham

Councillors Niblock  
Rayner

\*Matters dealt with under the Delegation Scheme

### **6 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were received.

### **7 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Brown, Derbyshire, Alexis Diouf, Peter Innes, Avis Murphy, Tom Murphy and Perkins.

### **8 PROPOSED AMENDMENTS TO TERMS OF REFERENCE OF TAXI CONSULTATIVE COMMITTEE (A410)**

The Licensing Manager submitted a report for Members to consider proposed amendments to the terms of reference of the Hackney Carriage and Private Hire Consultative Committee (Taxi Consultative Committee), which aimed to:

- Strengthen the representative role and nature of trade representatives;
- Clarify the nomination and appointment process for trade representatives to the Committee;
- Reinforce the importance of good attendance and contribution of members to meetings of the Committee;
- Enhance continuity of representation.

The report set out the background to and the reasons for the following proposed amendments:

- The nomination of trade representatives to be supported by ten other licence holders and to be submitted in writing in advance;
- In the event of more than six nominations of trade representatives being made, the majority agreement of all those nominated to be required as to which six nominations to put forward or, in the event of there not being majority agreement, for the elected Members of the Committee to determine this having regard to achieving as wide a representation as possible from different operators and drivers and to equalities issues;
- The opportunity to appoint one reserve representative each for hackney carriage and for private hire licence holders to participate in meetings in the absence of one of the other three representatives to be included;
- The level at which members forfeit their place to be reduced to missing two consecutive meetings without good reason;
- The appointment of trade representatives to be for a period of two years.

It was noted that initial proposals had been discussed at the Taxi Consultative Committee meeting in January, 2017, and that the revised proposals detailed in the report had been supported by trade representatives at the Taxi Consultative Committee meeting in April, 2017.

Councillor Caulfield, Chair of the Taxi Consultative Committee, and the Licensing Manager emphasised that it was hoped that the proposed changes would enhance the consultative process and meaningful discussion with the local taxi trade.

**\* RESOLVED –**

- (1) That the proposed amendments to the Terms of Reference of the Taxi Consultative Committee detailed in the report be approved.

- (2) That the Hackney Carriage and Private Hire Licensing Policy be amended to include the revised Terms of Reference of the Taxi Consultative Committee.
- (3) That nomination of trade representatives for a two year term from June 2017 be invited in accordance with the revised terms of reference.

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**For publication**

**Hackney Carriage and Private Hire Licensing Policy -  
Amendments (A410)**

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Meeting: Appeals and Regulatory Committee

Date: 28 June 2017

Cabinet portfolio: Health and Wellbeing

Report by: Licensing Manager

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**For publication**

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**1 PURPOSE OF REPORT**

- 1.1 To review proposed amendments to the Hackney Carriage and Private Hire Licensing Policy following a period of consultation on:
- 1.2 Disclosure and Barring Service (DBS) checks;
- 1.3 Access for wheelchair users; and
- 1.4 Security/CCTV cameras in licensed vehicles

**2 RECOMMENDATIONS**

- 2.1 Applicants for a new or renewed licence requiring a DBS check to use the DBS update service only.
- 2.2 The council maintains a list of designated wheelchair accessible vehicles, thereby requiring the drivers of such vehicles to provide assistance to those passengers and prohibit them from charging more for the journey.
- 2.3 If CCTV is fitted in a Chesterfield licensed hackney carriage or private hire vehicle then it must comply with the current version of the Home Office

‘Surveillance Camera Code of Practice’ or equivalent document. Any such system must not be on continuous audible recording.

### **3.0 REASON FOR RECOMMENDATIONS**

3.1 The amendments will enhance public safety and ensure compliance with new legislation.

### **4.0 BACKGROUND**

4.1 These proposals were brought before the committee on 15 March 2017 together with measures on the Immigration Act 2016 and driving assessments. The measures on the Immigration Act and driving assessments were implemented immediately but the remainder have been consulted on for three months.

4.2 The consultation involved a letter sent to all licensed drivers and operators, an in depth discussion at the meeting of the taxi consultative meeting on 19 April 2017, direct contact through the customer service centre and information placed on the council’s website.

4.3 The original proposal on DBS recommended annual, as opposed to three-yearly, checks, but this has been amended to the update service in light of feedback received during the consultation from safeguarding officers and advice from the DBS itself. Many other authorities are now adopting the update service.

4.4 Trade representatives at the consultative meeting were supportive of all the measures and one response was received in respect of CCTV recording.

4.5 The proposed amendment on CCTV recording was made by the council’s Information Assurance Manager, Mr Tony Smith, and made reference to the case of ‘Information Commissioner against Southampton City Council (EA/2012/0171)’. The representation seeks to show that the above ruling is not binding on Chesterfield licensed drivers as the council does not, unlike Southampton, mandate the fitting of CCTV. A copy of the letter is attached at appendix A.

4.6 Guidance has been sought from both Mr Smith and the council’s solicitor, Mr Oliver, who advise that the principles of the decision in the Southampton case apply regardless of who is the data controller and regardless of whether there is a requirement imposed by a council for



CCTV. In Chesterfield's case, the data controller will be either the driver, owner of the vehicle or operator and if they choose to have CCTV.

- 4.7 As such, the policy amendments recommended in this report are legally correct. If approved, officers will remind drivers and operators who are data controllers of their personal responsibility to register with the Information Commissioner's Office.

## **5.0 THE PROPOSALS**

### **5.1 Disclosure and Barring Service (DBS)**

- 5.2 The current policy requires a new DBS every three years from applicants who have been conviction free for a period of five years, and annually if the applicant has a conviction within the last five years that attracts five or more penalty points.

- 5.3 Concern has grown over the length of time between DBS checks and the danger this may place on the public. Safeguarding professionals and the DBS now recommend the update service, an online subscription that enables applicants to keep their DBS certificate up to date and allows employers to check a certificate online, with consent, at any time. The certificate can be used for other positions in the same workforce where the same type and level of check is required, provided the annual subscription of £13 is paid.

### **5.4 Access for wheelchair users**

- 5.5 Parts of the Equality Act 2010 have recently been commenced by the government to require drivers of 'designated accessible vehicles' to provide assistance to wheelchair passengers and prohibits them from charging extra for the service. A 'designated accessible vehicle' is defined as being capable of carrying a passenger in a wheelchair.

- 5.6 For these provisions to take effect licensing authority must maintain a designated list of wheelchair accessible vehicles.

- 5.7 Exemptions are available to the requirement to carry wheelchair passengers, but only on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the rules. Otherwise it is a criminal offence to not comply with these requirements.

- 5.8 The council currently requires all but 30 (120) of our hackney carriage vehicles to be wheelchair accessible to this level. There are also a number of private hire vehicles that are wheelchair accessible.

- 5.9 These provisions of the Equality Act 2010 are already enshrined in council policy but this amendment will allow a prosecution to be considered if appropriate.
- 5.10 **Security/CCTV cameras**
- 5.11 The council policy already makes provision for the use of CCTV in licensed vehicles but our Information Assurance Manager has advised it needs to be more robust.
- 5.12 CCTV systems must be targeted and not on continuous audible recording.
- 5.13 The use of surveillance cameras in licensed vehicles must comply with the current Home Office guidance and code of practice.

## **6.0 OPTIONS**

### **6.1 DBS checks**

- 6.2 A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out. It is for the council to decide if and when a new check is needed.
- 6.3 The DBS update service is the preferred process by safeguarding professionals, the school transport service and DBS itself for ensuring public safety.

### **6.4 Access for wheelchair users**

- 6.5 The council has the discretion whether or not to comply with section 167 of the Equality Act, although government advice is that they should do.
- 6.6 Without the list as required by section 167, section 165 cannot be prosecuted through the courts if necessary.

### **6.7 Security / CCTV cameras**

- 6.8 There have been a number of developments since the council's policy first included mention of security/CCTV cameras.
- 6.9 Our policy should reflect the judgement of the Information Commissioner against Southampton City Council (appeal no: EA/2012/0171) that CCTV fitted in licensed vehicles must not be on constant audio record.

## **7.0 EQUALITIES IMPACT ASSESSMENT**

- 7.1 A full equalities impact assessment has not been completed but the impact of these changes on minority groups will be minimal.

## **8.0 RISK MANAGEMENT**

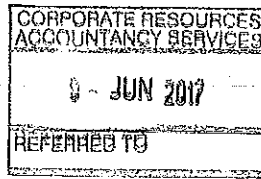
- 8.1 A full risk management assessment has not been completed but these measures will all enhance public safety.

## **9.0 RECOMMENDATIONS**

- 9.1 Applicants for a new or renewed licence requiring a DBS check to use the DBS update service only.
- 9.2 The council maintains a list of designated wheelchair accessible vehicles, thereby requiring the drivers of such vehicles to provide assistance to those passengers and prohibit them from charging more for the journey.
- 9.3 If CCTV is fitted in a Chesterfield licensed hackney carriage or private hire vehicle then it must comply with the current version of the Home Office 'Surveillance Camera Code of Practice' or equivalent document. Any such system must not be on continuous audible recording.

More information about this report is available from Trevor Durham - Licensing Manager on 01246 345203 or [trevor.durham@chesterfield.gov.uk](mailto:trevor.durham@chesterfield.gov.uk)

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7<sup>th</sup> June 2017

Licensing Department  
Environmental Services  
Chesterfield Borough Council  
Customer Service Centre  
85 New Square  
Chesterfield  
Derbyshire  
S40 1AH

Dear Sir,

Hackney Carriage and Private Hire Licensing Policy

Thank you for the letter dated 23<sup>rd</sup> March about amendments to the above policy.

I would like to make some comments about the "CCTV in licensed vehicles" section. I have had a look at the case involving the Information Commissioner and Southampton City Council, and as far as I can see the main issue was that the City Council mandated the fitting of CCTV systems in local licensed vehicles, and it was the City Council that had sole access to the recordings.

It would seem to me that the situation in Chesterfield is entirely different. We fit CCTV of our own volition, and advise the Council accordingly (as stated in the Policy). We have warning signs in the car so the public are aware that CCTV is in use.

It would also seem to me that the kind of system which most drivers in Chesterfield have is a comparatively simple affair. From the description of Southampton's system, there are "panic buttons" fitted which can be activated by either the driver or a passenger which would switch on sound recording on demand. I certainly don't have that level of sophistication! I can turn off sound recording, but only by making a change using the software on my home PC, uploading the changed configuration to the camera's memory card which then uploads that configuration to the camera the next time it is turned on. Turning sound recording back on is the same process -- it can't be done in the vehicle when trouble is brewing.

Your letter stated that we should only have sound recording on when difficulties are anticipated. The main reason I have the CCTV at all is to guard against the passenger who, for whatever reason, takes an exception to me and decides after the event to report me for whatever alleged transgression they might care to fabricate. In that case, I wouldn't know that I was experiencing "difficulties" until much later, and that's why I keep recordings for a month before deleting them.

Could I humbly suggest that this section of the Policy needs a re-think please?

Yours faithfully

Jim Brookbank  
Badge CD1192

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