

Central Bedfordshire Council

LICENSING COMMITTEE

Wednesday, 9 March 2016

Review of Hackney Carriage and Private Hire Policies and Conditions.

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Purpose of this report

1. To consider a proposed new hackney carriage and private hire policy following consultation with the trade, the public and other interested parties.

RECOMMENDATIONS

1. To seek a decision in relation to the policy Members wish to adopt and subsequently apply with regards to Hackney Carriage and Private Hire matters.
2. Recommend that Full Council adopts the policy.

Overview and Scrutiny Comments/Recommendations

1. Licensing matters do not fall within the O & S remit.

Current Policies and Conditions.

2. The current guidelines, policies and conditions for Hackney Carriage and Private Hire drivers were adopted on 01 April 2010. They were formed, in the main, by amalgamating the conditions of the former South Bedfordshire and Mid Bedfordshire District Councils.
3. It is intended to adopt new guidelines, policies and conditions for Central Bedfordshire's Hackney Carriage and Private Hire Trade. In addition, it is intended to present the guidance in a way that will be easy to access and understand.
4. Any new proposal / condition / change to the current practice is shown in bold, together with explanatory notes where it is thought necessary.

Options for consideration

The Consultation Process

5. Before a local authority can make a decision on matters affecting the hackney carriage and private hire trade, they must consider the views of all interested parties.
6. In December 2014, comments on the new proposals were invited from the trade, and other interested parties. However, the outcomes of the consultation were not provided at that time, nor were any changes made as two matters rendered the consultation out of date before its outcomes could be implemented. Firstly we awaited the Deregulation Bill to ensure that any conditions issued by CBC aligned to the Bill and secondly, we had started discussions with our neighbouring Bedfordshire authorities with a view to taking a PAN Bedfordshire approach to the possible adoption of a single Criminal Convictions Policy. We also wished to explore a PAN Bedfordshire approach to the possible provision of a Child Sexual Exploitation (CSE) training course for licence holders. Discussions on these matters are ongoing and would be the subject of further consultation in the future. In the meantime, various hackney carriage and private hire matters still needed addressing and the consultation has now been carried out again. There are some changes to the last consultation but any comments made previously are still valid and are included in this report.
7. In December 2015, all hackney carriage and private hire proprietors, operators and drivers, together with other interested parties were informed of the consultation process and their comments invited. The consultation documents were also available to members of the public by accessing the council's website. A copy of our letter to the trade dated 23 December 2015 can be found at Appendix A. This letter is specific to all reports.
8. Various comments were received during the consultation process. The comments can be found at Appendix B. The comments are specific to all reports.

Hackney Carriage and Private Hire Licensing Policy

It is intended that the policy document is written in a way that will make it easy for licence applicants and licence holders to understand the various legal requirements with regard to hackney carriage and private hire matters. It also sets out this authorities requirements and includes reference to the various conditions attached to our licences. A copy of the proposed Hackney Carriage and Private Hire Licensing Policy can be found at Appendix C.

Council Priorities

The proposed action supports at least one of the Council's priorities, listed below.

- Enhancing the local community – creating jobs, managing growth, and enabling business to grow.
- Protecting the vulnerable – ensuring a safe and accessible licensed hackney carriage and private hire trade.

Legal Implications

9. Under the Local Government (Miscellaneous Provisions) Act 1976, the Council is responsible as the local licensing authority and as such is responsible for decisions on licensing policies, strategies, licensable activities and license holders, as well as for providing a licensed service to the community that is safe and accessible. It is also under an obligation to promote the licensing objectives under the Act and act in line with national policies.
10. The hackney carriage and private hire trade have a right to expect a licensing regime that is fair and reasonable to them but the Council has to balance that expectation against safeguarding the public.
11. A fair regime implies a fair consultation with adequate information provided and time to respond. It also means genuine consideration by the Local Authority of the response to a consultation. While the Local Authority has a wide margin of discretion as to how it consults, if it falls short the courts are likely to invalidate the policy (unless it is clear that there is a low prospect of a different result had a proper consultation taken place).
12. Implementing a new policy also impacts on local business, individual drivers and operators, individual members of the public and the community at large. If it is rushed or there is not a proper consultation, the Council can face challenges from those who are impacted by the implementation.
13. Proper consultation will ensure drivers and operators are informed and allows them to adapt to changes with minimal disruption. This also minimises the risk of challenge and the likelihood of the courts finding the policy as invalid.
14. The Consultation that has taken place in this case is thorough with individual operators being invited to comment on the consultation as well as published documentation being readily available to the public.
15. It is however recommended that a further amendment is made to the consultation document that confirms all records are processed in accordance with the Data Protection Act 1998. It is also recommended that the paragraph on page concerning Records and Data Protection is amended to reflect this and that this Council may use any information provided by an applicant to it for the prevention or detection of crime, the apprehension or prosecution of offenders, for carrying out its

regulatory functions or where required by law. An addition to the wording should also explain that the Council may share information it holds on applicants with other bodies for the above purposes or where there is a legal obligation to do so.

16. Whilst this will not have been the wording in the consultation document sent out to invite comments on, the original wording did refer to the Data Protection Act 1998 and that processing of information may occur for prevention of fraud. This wording will have already put those reading the consultation document on notice that their data may be used in this way. The above amendments are minimal changes and by making this recommendation in this report the public are again notified that this change is being proposed. Between the report going to Committee and the Council sanctioning the proposed policy, there will be the opportunity for people to comment on this new wording.

Financial and Risk Implications

17. Fees are payable for hackney carriage and private hire licences. The fees charged represent the cost to the council producing the licences.
18. The fees and charges are adopted as part of the Council's budget setting process.

Equalities Implications

19. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability; gender reassignment; marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
 - In order to ensure the personal safety of all vulnerable groups wishing to use licensed vehicle, conditions are attached to licences ensure that this duty is met.

Conclusion and next Steps

20. Full Council must approve any decision made by the Licensing Committee in these matters.
21. It is anticipated the policy will take effect from 01 May 2016.

Appendices

The following Appendices are attached

22. Appendix A - Letter to the trade dated 23 December 2015.
Appendix B – Views of the trade and other interested parties – specific to all reports..
Appendix C – Hackney Carriage and Private Hire Licensing Policy

Background Papers

None