

MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE

MEETING DATE Monday, 27 March 2017

MEMBERS PRESENT: Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Gordon France, Margaret France, Tom Gray, Hasina Khan, Sheila Long, Adrian Lowe, Mick Muncaster, Kim Snape, Ralph Snape and John Walker

OFFICERS: Stephen Culleton (Lead Licensing and Enforcement Officer), Alex Jackson (Legal Services Team Leader), Stefanie Leach (Legal Assistant) and Nina Neisser (Democratic and Member Services Officer)

APOLOGIES: Councillors Keith Iddon and Mark Jarnell

17.LPS.69 Minutes of meeting Wednesday, 1 February 2017 of Licensing and Public Safety Committee

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 1 February 2017 be confirmed as a correct record for signature by the Chair.

17.LPS.70 Declarations of Any Interests

Councillor Ralph Snape declared a personal interest on both items (5 and 7) on the agenda and he subsequently left the room and did not take part in the remainder of meeting.

17.LPS.71 Minutes of the General Licensing Sub Committees

RESOLVED – That the minutes of the General Licensing Sub Committee held on 25 January 2017 and 8 February 2017 be confirmed as a correct record.

17.LPS.72 Hackney Carriage and Private Hire Vehicle Condition and Testing Requirements

The Director of Early Intervention and Support submitted a report to the Licensing and Public Safety Committee to seek Members approval of a new Taxi Licensing Policy.

The Council's Lead Licensing and Enforcement Officer provided a verbal update at the meeting to amend recommendation (2b) in the report which would ensure that the consultation would not commence until the draft policy had been approved by the Director, Chair and Vice-Chair and the Executive Member for Licensing.

This report was presented in light of the Licensing and Public Safety Committee decision on 1 February 2017 to consolidate the existing Taxi Licensing Policies and at the same time adopt new conditions.

Members recalled making a decision at the meeting of the Licensing and Public Safety Committee on 1 February 2017, to consolidate a number of existing policies that dealt with the Licensing of Hackney Carriage Drivers, Vehicles and Operators. At the meeting, Members also determined to adopt a policy that dealt with the issue where licensed vehicles were persistently being presented with numerous advisory notes that were identified during the MOT part of the Council's Taxi Test. The specific requirement intended to address the concerns of the Members from the policy stated; 'the Council do not permit the vehicles to pass the Council's Taxi Test where there are Advisory Notes on the MOT carried out as part of the test. These must be resolved in the same way as failure issues must be rectified before that garage can mark the vehicle as passing the Taxi Test'.

Officers received representation from Parry Welch Lacey LLP Solicitors on behalf of Chorley Autocare Limited by way of a proposed claim for a Judicial Review towards that decision specifically and in relation only to that part of the policy that determined that vehicles were not able to pass the Council's Taxi Test where Advisory notes existed. The claim included other matters that were not part of the policy which were considered in the second report.

To address the proposed Judicial Review claim, Members were asked to remove the aforementioned criterion of application and renewal of Hackney Carriage and Private Hire Vehicles. Removing the criterion would assist in addressing the substantive claim contained in the representation received and reduce the justification to apply for the judicial review. The Council acknowledged that whilst the policy was introduced for very sound motives to protect the travelling public, there were ambiguities arising from the policy and the mode of its implementation may not be clearly understood.

Members were made aware that should they remove the relevant requirement, it would be appropriate for Members to approve the proposed Taxi Licensing Policy, which remained the same as the present policy with the removal of the highlighted requirement. Officers reminded Members that should the relevant criterion be removed and proposed Taxi Licensing Policy be adopted it would be in the absence of any consultation.

Following discussion, it was reiterated to Members that the MOT was the lowest required standard; however there was nothing to stop the council from implementing more than required. Members were reminded that public service vehicles experienced substantially more mileage than domestic vehicles and therefore there were concerns over the consistency of advisories. It was reiterated that the Council had the power to require vehicles to be tested up to three times per year at a testing garage within the borough as specified under Section 50 of the Local Government (Miscellaneous Provisions) Act 1976. However this would raise questions over the feasibility of conditioning and managing a service schedule as this would not be cost effective due to the number of Private Hire and Hackney Carriage vehicles in the borough.

After careful consideration it was proposed by Councillor Adrian Lowe, seconded by Councillor Gordon France, and subsequently **RESOLVED (unanimously) to;**

1. Approve the proposed Taxi Licensing Policy;

2. Instruct officers to identify and propose a policy that would address the concerns that have been previously identified relating to the condition of vehicles, vehicle maintenance, and those vehicles that present for testing having advisory notes attached at the MOT test. To report back to the next Licensing and Public Safety Committee a proposed policy to address those concerns having carried out the appropriate consultation.
3. Such consultation would not commence until the draft policy had been approved by the Director in consultation with, Chair and Vice-Chair and the Executive Member for Licensing.

17.LPS.73 Exclusion of Public and Press

RESOLVED – That the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972.

17.LPS.74 Hackney Carriage and Private Hire Vehicle Testing Requirements that are Subject to a Proposed Claim for Judicial Review

The Director of Early Intervention and Support submitted report to inform Members of the representations received towards the Council's Taxi Licensing Policy and pre-action protocol letter relating to a proposed Judicial Review.

On 21 February 2017, officers visited the Council's approved Testing Garages to advise them of the new requirement. The Policy was generally well received by the testing stations, with the notable exception of Chorley Autocare Ltd who expressed objections to the policy.

On 14 March 2017, officers received a Proposed Claim for Judicial Review from Parry Welch Lacey LLP Solicitors on behalf of Chorley Autocare Ltd.

In light of the matters raised in the claim, the Licensing Officer consulted with the Executive Member for Licensing and took the view that to defend the claim was not in the public interest due to a number of factors included in the report. Members noted that removing the substantive reason for the Judicial Review (the requirement to resolve advisory notes as previously described) would largely neutralise the proposed Judicial Review claim, although there remained contentious issues.

Following discussion, Members were informed that Chorley Autocare had been reinstated as one of the Council's testing centres. Members were reassured that there were a number of options for action available to the council which would be considered for the drafting of policy for consultation.

It was proposed by Councillor Adrian Lowe, seconded by Councillor Hasina Khan, and subsequently **RESOLVED (unanimously); that the report be noted.**

Chair

Date