

A meeting of the **LICENSING AND PROTECTION COMMITTEE** will be held in **CIVIC SUITE 0.1A, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **WEDNESDAY, 20 SEPTEMBER 2017** at **2:00 PM** and you are requested to attend for the transaction of the following business:-

**Contact  
(01480)**

## **APOLOGIES**

**1. MINUTES** (Pages 5 - 12)

To approve as a correct record the Minutes of the meetings of the Licensing and Protection Committee held on 5th July 2017.

**C Bulman  
388169**

**2. MEMBERS INTERESTS**

To receive from Members declarations as to disclosable pecuniary and other interests in relation to any Agenda Item.

**3. PUBLIC SPACE PROTECTION ORDER - DOG CONTROL** (Pages 13 - 28)

To consider a report by the Head of Community seeking approval for a new Public Spaces Protection Order for the control of dogs.

**F Flett  
388377**

**4. MONITORING REPORT ON THE DELIVERY OF THE FOOD LAW ENFORCEMENT AND HEALTH AND SAFETY SERVICE PLANS** (Pages 29 - 40)

To consider the monitoring reports on the delivery of the Food Law Enforcement Plan and the Health and Safety Service Plan for the period 1st April to 31st August 2017.

**S Walford  
388002  
C Stopford  
388280**

**5. CONSULTING ON A DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY** (Pages 41 - 82)

To consider a report by the Head of Community seeking approval of a draft licensing policy for public consultation.

**C Allison  
387075**

**6. LICENSING AND PROTECTION SUB COMMITTEE** (Pages 83 - 84)

To receive a summary of the meetings of the Licensing and Protection Sub Committee that have taken place since the last meeting of the Committee.

**C Bulman  
388169**

**7. SUSPENSION AND REVOCATION OF PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLE AND DRIVERS LICENCES UNDER DELEGATE POWERS**

To consider a report by the Head of Community, summarising the actions which have taken place since the last meeting of the Licensing and Protection Committee.

C Allison  
387075

Dated this 12 day of September 2017



Head of Paid Service

## Notes

### 1. **Disclosable Pecuniary Interests**

- (1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*
- (2) *A Member has a disclosable pecuniary interest if it -*
  - (a) *relates to you, or*
  - (b) *is an interest of -*
    - (i) *your spouse or civil partner; or*
    - (ii) *a person with whom you are living as husband and wife; or*
    - (iii) *a person with whom you are living as if you were civil partners*

*and you are aware that the other person has the interest.*
- (3) *Disclosable pecuniary interests includes -*
  - (a) *any employment or profession carried out for profit or gain;*
  - (b) *any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);*
  - (c) *any current contracts with the Council;*
  - (d) *any beneficial interest in land/property within the Council's area;*
  - (e) *any licence for a month or longer to occupy land in the Council's area;*
  - (f) *any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or*
  - (g) *a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.*

### **Non-Statutory Disclosable Interests**

- (4) *If a Member has a non-statutory disclosable interest then you are required to declare that interest, but may remain to discuss and vote providing you do not breach the overall Nolan principles.*
- (5) *A Member has a non-statutory disclosable interest where -*
  - (a) *a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or*
  - (b) *it relates to or is likely to affect a disclosable pecuniary interest, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association, or*
  - (c) *it relates to or is likely to affect any body –*

- (i) exercising functions of a public nature; or
- (ii) directed to charitable purposes; or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of control or management.

and that interest is not a disclosable pecuniary interest.

## **2. Filming, Photography and Recording at Council Meetings**

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**Please contact Mrs Claire Bulman, Democratic Services, Tel: 01480 388234 / email: Claire.Bulman@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee/Panel.**

**Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.**

**Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.**

Agenda and enclosures can be viewed on the District Council's website – [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk) (under Councils and Democracy).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Elections & Democratic Services Manager and we will try to accommodate your needs.

### **Emergency Procedure**

*In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.*

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## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION COMMITTEE held in Civic Suite 0.1A, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 5 July 2017.

PRESENT: Councillor S J Criswell – Chairman.

Councillors Mrs B E Boddington, J E Corley,  
J W Davies, R Fuller, L George,  
Mrs S A Giles, J M Palmer, Mrs J Tavener,  
R G Tuplin and R J West.

APOLOGY: An Apology for absence from the meeting was submitted on behalf of Councillor Mrs S Conboy.

### **5. MINUTES**

The Minutes of the meetings of the Licensing and Protection Committee held on 22nd March and 17th May 2017 were approved as correct records and signed by the Chairman.

### **6. MEMBERS INTERESTS**

No declarations were received.

### **7. MONITORING REPORT ON THE DELIVERY OF THE FOOD LAW ENFORCEMENT AND HEALTH AND SAFETY SERVICE PLANS**

With the assistance of a report by the Operational Manager (Business) (a copy of which is appended in the Minute Book) the Committee received an update on progress made against the delivery of work in the Council's Food Law Enforcement and Health and Safety Service Plans during the period 1st April to 19th June 2017.

In presenting progress against the Food Law Enforcement Plan, the Head of Community drew attention to two new initiatives which were being explored for roll out by the Division. The 'Better Business for All' programme, which aimed to bring together businesses and regulators through the creation of local partnerships and the public health led 'Healthier Options' programme which was intended to tackle the growing issues relating to obesity.

Attention was then drawn to the Appendices to the report which set out recorded activity against predicted activity in a number of service areas. The Committee were pleased to note that progress in the majority of areas in both Service Plans had been classified as green and were satisfied with the explanations which were provided for the three areas where progress had been identified as Amber.

The Head of Community then gave a brief update into the ongoing District Council investigation into the recent work place death at

Hamerton Zoo. Members were informed that the Police investigation had now concluded and the evidence had now been transferred to the Local Authority as the Regulatory Authority for Zoo Licensing and the Health and Safety Authority. It was hoped that a further update could be provided to the Committee's next meeting in September 2017. Members were advised of the support mechanisms which were in place to assist District Council officers in undertaking their work on this incident.

In response to Members comments regarding the national and international increase in notifications of food poisoning illnesses, Members were informed that there was traditionally an increase during the summer period. The District Council would continue to use Social Media to educate and inform local residents about the issue and would also be running the Food Standards Agency's Summer Barbecue campaign over the holiday season.

With regard to a question concerning programmed hygiene inspections, Members were reminded that all providers of food were subject to an inspection regime based upon their risk rating classification. This included road side facilities, where the storage facilities may not be not co-located on the same site.

In concluding their discussion on this item, the Committee were invited to consider the frequency upon which they wish to receive future monitoring reports. Following further discussion and having regard to their role in monitoring the delivery of the Food Law Enforcement and Health and Safety Service Plans, it was

RESOLVED

that monitoring reports should continue to be submitted to the Licensing and Protection Committee on a quarterly basis.

**8. SERVICE PLAN FOR HEALTH AND SAFETY REGULATION 2017-18**

Further to Minute No. 38 of their meeting held on 22 March 2017 and with the assistance of a report by the Head of Community (a copy of which was appended in the Minute Book), the Committee considered the contents of the 2017-18 draft Service Plan for Health and Safety Regulation. The Plan had been developed in accordance with the National Local Authority Enforcement Code and Local Authority Circular LAC 67/2 and sets out how the District Council will fulfil its duty to enforce of the relevant statutory provisions within its area over the forthcoming year.

Having been reminded that the Committee had reviewed the draft Plan at their previous meeting and having been acquainted with the amendments that had been made since that date, Members attention was drawn to the programme of proposed joint food hygiene and health and safety inspections in 2017/18. In response to fatal incidents within the last few years, work was also scheduled to be undertaken with regards to the management of risks at animal visitor attractions and at motorised leisure activities / large scale public events.

Arising from a Member question concerning beauty industry standards and specifically the use of tanning sunbeds, the Head of Community explained that there was no data to suggest that there were any heightened levels of concern in this area and the service were not receiving any complaints to this effect. However if Members wished, further information could be provided to a future meeting but this would require a decision on priorities and resourcing in other areas of the service.

The Committee were advised that whilst many local authorities undertake very little health and safety activity, Huntingdonshire in support of the objectives within its Corporate Plan continues to allocate resources in this area to maintain a health and safety service which was proportionate to the risk to the local community.

Whereupon, it was

**RESOLVED**

that the Service Plan for Health and Safety Regulation 2017-18 as appended to the report now submitted be approved.

**9. SERVICE PLAN FOR FOOD LAW ENFORCEMENT 2017-18**

Further to Minute No 37 of their meeting held on 22nd March 2017 and with the assistance of a report by the Head of Community (a copy of which is appended in the Minute Book), the Committee considered the contents of the draft Service Plan for Food Law Enforcement for 2017-18. The Plan had been developed in accordance with the Food Standards Agency Framework Agreement and sets out how the District Council's enforcement function will be delivered over the course of the forthcoming year. A review of the work undertaken during the previous year had also been included.

Having been reminded that the Committee had reviewed the provisional Plan at their previous meeting and having been acquainted with the amendments that had been made since that date, it was

**RESOLVED**

that the Service Plan for Food Law Enforcement 2017-18 as appended to the report now submitted be approved, in accordance with the District Council's Constitution.

**10. PUBLIC SPACE PROTECTION ORDER - CONSULTATION**

Consideration was given to a report by the Head of Community (a copy of which is appended in the Minute Book) seeking authorisation to undertake a consultation exercise which could be used to inform the principles and detail of a new Public Spaces Protection Order (PSPO) for the control of dogs in Huntingdonshire.

By way of background the Committee were informed by the Operational Manager (People) that there were currently four separate Dog Control Orders in place across the District. However given that these would lapse over a period of time from October 2017,

consideration was now being given to the implementation of a District-wide order.

Although it was recognised that the vast majority of dog owners were responsible and controlled their pets appropriately, Members were advised that the control of dogs continued to remain a significant issue for the public. The Council had received over 1,000 complaints related to dog control over the past 2 years.

Attention was drawn to the conditions imposed by the District's existing Orders and Members were advised that these only applied to the areas for which they were specified. Member's attention was then drawn to Section 3.4 of the report which set out the conditions on which it was intended to consult, with a view to their inclusion in a new PSPO. The preferred approach at this stage was to apply a range of general conditions across the whole of Huntingdonshire with additional conditions in specific locations

With regards to the consultation, Members were advised that it was proposed to undertake an on-line consultation exercise during July and August 2017. Having sought clarification that this would include Town and Parish Councils, Members were advised that the consultation would also include the Police and Crime Commissioner and the Constabulary as statutory consultees. Details of the specific issues on which views would be sought were also provided.

In welcoming the proposal given that dog control issues were a matter of regular discussion at Parish Council meetings, Members were also pleased to note that following the re-structure of the Community Division it was the intention to undertake further targeted enforcement in conjunction with Town and Parish Councils.

Whereupon and having noted that the intention was not to interfere unduly with the legitimate activities of responsible dog owners, but to enable the Authority to deal with the issue in an effective, transparent and proportionate manner, it was

**RESOLVED**

that a consultation exercise on the principles and content of a proposed new Public Spaces Protection Order covering the control of dogs in Huntingdonshire be authorised to proceed; the results of which should be presented to the meeting of the Licensing and Protection Committee on 20th September 2017.

**11. SCOPING EXERCISE ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**

With the assistance of a report by the Licensing Manager (a copy of which is appended in the Minute Book) the Committee received an update on the outcome of a recent scoping exercise on the Hackney Carriage and Private Hire functions undertaken by the Council and a proposal to formulate and publish a new dedicated Taxi Policy Statement for the District Council.

Members were advised by the Licensing Manager that the service currently operates within a number of separately published policies



and procedures, but has no overarching policy document. As a result of a recent increase in the number of licensed drivers and vehicles together with the need to be more business and customer focused, it was now considered appropriate to formulate and publish a dedicated Taxi Policy Statement. It would also provide an opportunity to address recent new statutory duties placed upon the Council and enable consideration to be given to the introduction of a number of new discretionary initiatives to raise standards.

Member's attention was then drawn to Section 3 of the report which set out a range of necessary and discretionary items which might be incorporated into the draft policy. Members were of the view that these should all be explored as part of the development of the new policy, although some comments were made about the potential issues surrounding the potential imposition of an age limit on vehicles.

Having been advised of the comments made by Councillor P D Reeve concerning the need to ensure that there is significant consultation with sector leaders within the District to identify and overcome any practical challenges, the Head of Community explained that there would be a full public consultation, including a specific event with the taxi trade between October and December 2017.

Whereupon and having acknowledged that the Council has a duty to provide a safe and secure taxi service to the public and the need to set sufficient licensing standards for the benefits of customers and the public, it was

#### RESOLVED

- (i) that a dedicated Taxi Licensing Policy be formulated and a draft prepared for the next meeting of the Licencing and Protection Committee on 20th September 2017;
- (ii) that the matters detailed in paragraph 3.1 of the report where action is considered to be necessary be approved for consideration as part of the development of the draft policy; and
- (iii) that the matters detailed in paragraph 3.2 of the report where action is considered to be discretionary also be approved for consideration as part of the development of the draft policy.

#### **12. COMMENCEMENT OF SECTION 165 AND 167 OF THE EQUALITY ACT 2010 : CHANGES TO THE LEGISLATION AFFECTING DRIVERS OF WHEELCHAIR ACCESSIBLE VEHICLES**

With the assistance of a report by the Licensing Manager (a copy of which is appended in the Minute Book) the Committee considered a report seeking authority to implement Sections 165 and 167 of the Equalities Act 2010.

The Committee were advised by the Licensing Manager that Sections 165 and 167 of the Equalities Act came into force on 6th April 2017. Section 165 made it illegal for taxi drivers of designated wheelchair accessible vehicles to discriminate against wheelchair users unless

they are certified as being exempt.

The Licensing Manager explained that before drivers can be subject to the duties under Section 165, the Licensing Authority must publish a list of designated vehicles. Section 167 of the Act permits, but does not require Licensing Authorities to maintain a designated list. Whilst Licensing Authorities were under no legal obligation to main a list, the Government strongly recommended that they did and the Department for Transport had recently issued Statutory Guidance on access for wheelchair users to Taxis and Private Hire vehicles to which Local Authorities should have regard.

Attention was then drawn to the steps which would be required to ensure that the new requirements are implemented effectively in Huntingdonshire. Members were advised that whilst there was no requirement to undertake consultation, drivers and operators would be made aware of the new requirements and given time to apply for exemptions where appropriate.

Having noted that the intention of Sections 165 and 167 was to have a positive impact for passengers in wheelchairs to ensure that they are better informed about the accessibility of designated taxis and private hire vehicles and were confident of receiving the assistance they needed to travel safely, it was

#### RESOLVED

- (i) that the implementation of Sections 165 and 167 of the Equality Act 2010 as laid out in the main body of the report be approved.
- (ii) that if possible the timeframe for implementation should be within a period of six months, but if not the Head of Community and the Licensing Manager following consultation with the Executive Councillor for Housing and Regulatory Services and the Chairman of the Licensing & Protection Committee be authorised to set a final implementation date.
- (iii) that the Head of Community and the Licensing Manager be authorised to determine all procedural matters including the application form, the evidential requirement in support of claims, the system for assessments and the duration of an exemption certificate; and
- (iv) that any breaches would require the driver to appear before the Licensing and Protection Sub-Committee to determine whether there are 'fit and proper' to hold a Hackney Carriage and Private Hire Driver's licence.

### **13. REPRESENTATIONS ON EXTERNAL ORGANISATIONS**

With the assistance of a report by the Elections and Democratic Services Manager (a copy of which is appended in the Minute Book), the Committee were invited to review the Council's representation on

those organisations to which it appoints on an annual basis.

Whereupon and having noted that the existing representatives had indicated that they were happy to continue to represent the District Council, it was

RESOLVED

that nominations are made to the following organisations :-

<b>Organisation</b>	<b>Representative for 2017/18</b>
Cambridgeshire Consultative Group for the Fletton Brickworks Industry	Councillor E R Butler
Little Barford Power Station Liaison Committee	Councillor J E Corley
Needingworth Quarry Local Liaison Committee	Councillors R C Carter and M Francis
Warboys Landfill Local Liaison Committee	Councillor P L E Bucknell

**14. LICENSING AND PROTECTION APPLICATIONS SUB COMMITTEE**

With the aid of a report by the Elections and Democratic Services Manager (a copy of which is appended in the Minute Book) the Committee noted the details of three meetings of the Licensing and Protection Sub-Committee which had taken place between 11th May and 30th June 2017.

**15. SUSPENSION AND REVOCATION OF PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLE AND DRIVERS LICENCES UNDER DELEGATED POWERS**

With the aid of a report by the Head of Community (a copy of which is appended in the Minute Book) the Committee noted the details of two licences which had been suspended under the powers delegated to the Head of Community since the last meeting of the Committee.

Chairman

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**Public**  
**Key Decision - No**

## HUNTINGDONSHIRE DISTRICT COUNCIL

<b>Title/Subject Matter:</b>	Public Space Protection Order- Dog Control
<b>Meeting/Date:</b>	Licensing and Protection Committee 20 <sup>th</sup> September 2017
<b>Executive Portfolio:</b>	Executive Councillor for Community Resilience, Well-Being and Regulatory Services, Cllr Angie Dickinson
<b>Report by:</b>	Head of Community, Chris Stopford
<b>Ward(s) affected:</b>	All

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### **Executive Summary:**

The Anti-Social Behaviour, Crime and Policing Act 2014 gave powers to local authorities to introduce Public Space Protection Orders (PSPOs) to control a range of issues linked to anti-social behaviour, including the control of dogs. The transitional arrangements for the Act mean that all current Dog Control Orders will end in October 2017, automatically being converted to become PSPOs. This situation gives rise to the potential for confusion in enforcing controls, unless formally converted to PSPOs with the current enforcement penalty schedules.

Although the vast majority of dogs cause no problems, the control of dogs remains a significant issue to the public, consistently featuring as a significant complaints issue.

This report provides feedback from a consultation exercise which was authorised by the Committee in July 2017. The responses to this consultation were strongly in favour of the Council establishing a new PSPO to replace the current dog control measures.

As such, this report recommends replacing the current Dog Control Orders with a new single, District-wide PSPO which sets out a standard set of proportionate controls which apply across the whole District and a set of additional controls which only apply to specified locations, as detailed in the report.

### **Recommendation(s):**

The Licensing and Public Protection Committee is recommended:-

1. to approve the making of a new Public Spaces Protection Order covering the control of dogs, as detailed in Appendix 2 to this report; and
2. to delegate authority to the Head of Community, in consultation with the Executive Councillor for Community Resilience, Well-Being and Regulatory Services, to make minor amendments to the conditions and scope of the PSPO.

## **1. PURPOSE OF THE REPORT**

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 came into effect in October 2014. Among its provisions was the replacement of a series of previously-enacted Orders, including Dog Control Orders, with a new wide-reaching order, the Public Space Protection Order (PSPO). The transitional arrangements for implementing the Act involved existing Dog Control Orders remaining in place for a period of 3 years (i.e. to October 2017) after which time they become PSPOs.
- 1.2 The automatic conversion of the former Dog Control Orders to PSPOs is beneficial in that the powers under the old system will not be lost, assuming local authorities wish to retain the powers to control dogs. However, it introduces a potential confusion in publicising and enforcing these powers, as the converted Dog Control Orders retain their original penalties, which may be different to the current PSPO system. As such, if enforcement is being undertaken, it is possible that the actual offence being committed, i.e. breach of the PSPO, carries a different penalty to the offence as stated under the originating Dog Control Order. Hence, it is best practice to convert the Dog Control Orders to PSPOs formally as this will ensure complete clarity in publicity and enforcement.

## **2. WHY THIS REPORT IS NECESSARY**

- 2.1 Although it is recognised that the vast majority of dog owners are responsible and control their pets appropriately, the control of dogs remains an issue of concern to the public. The Council has received over 1,000 complaints related to dog control over the past 2 years, including reports of dog fouling, stray dogs, dogs off leads and dangerous dogs. This indicates that the Council requires the means to control these issues and to take appropriate enforcement action should this be necessary.
- 2.2 Best practice dictates that proposed PSPOs are proportionate to the problems being experienced and contain conditions which are likely to be effective without placing undue restrictions on the general public who are going about their legitimate business and are not causing concern or anti-social behaviour. Best practice also dictates that appropriate consultation takes place with those who may be affected.
- 2.3 This report provides feedback from the statutory consultation process which has been carried out during July and August 2017 and proposes a set of principles for a new PSPO, outlines a series of proposed control measures which are recommended for inclusion in a new PSPO.

## **3. OPTIONS CONSIDERED**

- 3.1 There are currently 4 separate Dog Control Orders in place across the District, developed to address specific concerns and including specific control conditions in specified locations. The current orders only apply to the areas for which they are specified. The current Orders impose conditions as follows:-
- A requirement to place dogs on lead upon request by an authorised officer. This applies District-wide;
  - A requirement to pick up and remove dog faeces. This applies to road carriageways and verges with speed limits of 40mph or less, footpaths and verges, parks and open spaces maintained by any local authority, burial grounds, school land and a list of specifically designated locations;

- A requirement to keep dogs on leads at all times. This only applies to road carriageways and verges with speed limits of 40mph or less and a list of specifically designated locations; and
  - A dog exclusion requirement. This applies to enclosed areas designated by description, including all fenced-in children's play areas, bowling greens, croquet lawns, tennis courts, sporting or recreational facilities which are signed as dog exclusion areas and a list of specifically designated locations.
- 3.2 All current Dog Control orders will cease in October 2017, automatically being replaced by a PSPO. It would be possible for the Council to adopt a "do nothing" position and enforce on the current powers. This is not considered appropriate because it has the potential to introduce confusion in enforcement as the offences and penalties will be different under the new system to those stated in the current orders. Further, the Council would be unable to make any amendments to the transferred Orders to take account of the changing environment in Huntingdonshire arising from the continued development on new residential areas. Individuals could be enforced against for the offence of breaching a PSPO, enforceable with a fixed penalty of £100, whereas the offence which they are prohibited from committing is differently described and carries a different penalty under the originating Dog Control Order, despite its conversion to a PSPO.

#### **4. CONSULTATION ON DOG CONTROLS**

- 4.1 In order to implement a PSPO, the Council is required to carry out a consultation exercise giving a group of statutory consultees and individuals who may be affected the opportunity to make representations.
- 4.2 During July and August 2017, a consultation exercise was undertaken, largely by means of an on-line survey which asked questions about experiences with dog control issues, the underpinning principles of the proposed PSPO and the detail of the proposed controls. The survey was publicised in local media and on the Council's web site. In addition to the on-line survey, the statutory consultees (the Police and Crime Commissioner, the Police Chief Constable) and all Town and Parish Councils in the District were contacted and offered the opportunity to comment. Invitations to comment were also sent to the Kennel Club and Dogs Trust as significant interest groups.
- 4.3 The proposed PSPO was fully endorsed by both the Police and Crime Commissioner and the Police Chief Constable. Written responses were received from 18 Town or Parish Councils, all of which were strongly supportive of the proposed PSPO in terms of the retention of existing controls and the majority in favour of the additional district-wide controls. Only one Parish Council commented that, although wishing to retain the current controls, they did not favour the new measures.
- 4.4 The Kennel Club and Dogs Trust were consulted as major dog interest organisations. Both organisations accepted the need for some measures to control dogs, particularly to act against the minority of irresponsible owners. Both also commented that conditions should not unduly impact upon the activities of responsible owners and well-behaved dogs. The Kennel Club response was broadly supportive of the key measures but stated that they believe strongly that dogs should have the opportunity to exercise off-lead in appropriate locations. They also noted some concerns about enforcement practicalities, specifically whether dog owners would be enforced against if they were not able to demonstrate that they were carrying "poo bags" if there was, in fact a reasonable excuse for this. Dogs Trust responded with a supportive

message endorsing measures on dog fouling, accepting that there are some areas which dogs should be excluded from and areas where dogs should be on leads. They noted that care should be given to ensure that areas are still available for dogs to run off-lead, and supported the measure whereby dogs are required to be placed on lead under direction as they note this targets out of control dogs. A further comment was provided related to conditions setting maximum numbers of dogs being walked by one person but this is not part of the Huntingdonshire proposal.

- 4.5 The results of the on-line survey is attached as Appendix 1 to this report. A total of 355 responses were received to the on-line survey, 60% being dog owners. Views were sought on the following specific issues:-
- Whether they, a member of their family, or someone they know had experienced dog control issues in the past year. 59% stated that problems had been experienced. The most common problems noted were dog fouling (163 responses), dogs running out of control (80), dogs barking (60) and dogs off-lead in controlled areas. Dog attacks were also reported, both on people (15 responses) and on other dogs (45), as were reports of feeling threatened by a dog's behaviour, reported by 40. These problems were reported by both dog owners and non-owners.
  - Whether the Council should implement a new PSPO. 88% responding said they favoured an order covering some aspects of dog control. Asked where controls should apply, 55% felt all conditions should cover the whole district, 40% favoured controls in specified areas and 5% said that there should be no controls anywhere;
  - Whether the Council should require that dog faeces to be picked up and taken away or disposed of in a suitable bin across the whole District. 89% supported this, with a further 11% saying that this should apply to specified areas;
  - Whether persons in control of dogs should be required to carry a suitable receptacle for picking up and disposing of dog faeces, and to demonstrate this on request by an authorised officer. 90% agreed that owners should do this;
  - Whether the Council should require that dogs to be placed on a lead upon request by any authorised officer in specified locations, as per the current designation. 40% agreed with this for specified locations, 51% said this should apply to the whole district;
  - Whether dogs should be required to be on a lead at all times, supported for specified locations by 66%, and be excluded from some specified locations, as per the current designation, supported by 90% of respondents; and
  - Whether there are any other dog controls which the Council should introduce under a PSPO. Only 3% indicated additional controls would be desirable.
- 4.6 As shown in the analysis in Appendix 1, overall responses were strongly in support of the principles underpinning the PSPO and strongly in favour of all of the proposed measures.
- 4.7 When asked about requiring dogs to be on leads in certain locations, 51% of respondents replied that this restriction should apply to the whole district. However, it is considered that this would be a disproportionate measure and would impinge upon the legitimate activities of responsible dog owners so it is recommended that the requirement to have dogs placed on leads remains limited to the locations which currently have this restriction in place.



4.8 Having considered the responses to the consultation exercise, it is clear that both the public and the statutory agencies consulted are of the view that dog control is an ongoing issue and that the formal introduction of a PSPO to help control problems caused by the minority of irresponsible owners and badly behaved dogs is strongly supported. The views expressed by the dog interest groups do not contradict this position but provide reminders that the controls issued must be proportionate and not unduly interfere with the legitimate activities of the law-abiding majority of responsible dog owners.

## **5. PROPOSED PUBLIC SPACES PROTECTION ORDER**

5.1 It is evident that the vast majority of dog owners are responsible individuals who control their pets and behave in a law abiding manner. It is essential that, in developing dog controls, that the impact upon the majority is minimised and that the irresponsible minority are targeted in a fair and proportionate manner.

5.2 As such, in the light of the consultation exercise and considering the history of dog controls already in place in the District, it is recommended that the following conditions be applied under a new PSPO:-

- The PSPO apply to the whole of Huntingdonshire, with general conditions covering the whole District and additional conditions to apply only in specified locations, similar to the arrangements under the current Dog Control Orders;
- The conditions of the PSPO will not apply to guide dogs or assistance dogs, within defined criteria, the definition being updated to take account of new definitions within the Equality Act 2010. This is largely the same as the current situation;
- A District-wide condition requiring dog faeces to be picked up and taken away or disposed of in a suitable bin (this is more restrictive than the current arrangement, as some parts of the District are not currently covered);
- A District-wide condition requiring persons in control of dogs to be required to carry a suitable receptacle for picking up and disposing of dog faeces, and to demonstrate this on request by an authorised officer (this is an additional condition);
- A District-wide condition requiring dogs to be placed on a lead upon request by any authorised officer (this is the same as the current situation);
- A condition requiring dogs to be kept on a lead at all times in specified locations (this is the same as the current situation- no change is proposed to the specified locations); and
- A condition stating that dogs are not allowed in specified locations (this is the same as the current situation- no change is proposed to the specified locations).

5.3 The proposed wording of the PSPO is attached as Appendix 2 to this report. This lists all locations to which specific controls, i.e. those over and above the general District-wide conditions.

5.4 If deemed necessary, this order can be supplemented at a later time by placing additional conditions on specified areas or by adding new designated areas, should these be required in response to locally evidenced issues, subject to a formal consultation. The PSPO lasts for a maximum of 3 years, so a full review will be required at that time.

## **6. KEY IMPACTS / RISKS**

- 6.1 The key risk relating to this issue relates to the fact that, under the transitional arrangements for the implementation of the Anti-Social Behaviour, Crime and Policing Act 2014, all existing Dog Control Orders convert to PSPOs which continue to hold the current prohibitions and penalties in October 2017 unless replaced by an appropriate PSPO with current penalties. The making of a new PSPO will mitigate this risk.

## **7. TIMETABLE FOR IMPLEMENTATION**

- 7.1 As required under the Anti-Social Behaviour, Crime and Policing Act 2014, if the Committee agrees to the implementation of a new PSPO, it will have to be publicised for a period of 20 days before it comes into force. As such, the proposed PSPO has been drafted to come into effect on 20<sup>th</sup> October 2017.

## **8. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES**

- 8.1 Placing effective controls on dogs an irresponsible dog owners links to the strategic priority of Enabling Communities, specifically to the work programme objectives of “ensuring that our streets and open spaces are clean and safe”, “working closely with partners to reduce crime and anti-social behaviour” and providing and protecting quality green space and community facilities within new developments”.

## **9. LEGAL IMPLICATIONS**

- 9.1 The power to issue PSPOs is contained in the Anti-Social Behaviour, Crime and Policing Act 2014. The Act requires consultation with parties likely to be affected by a new PSPO. The Act includes the Police and Police Authority as statutory consultees.
- 9.2 If a new PSPO is enacted, it will remain in place for a period of up to three years, after which time it will lapse unless renewed. There is no limit to the number of times a PSPO can be renewed. Each renewal will require consultation and formal approval.
- 9.3 If a new PSPO is not enacted, the current Dog Control Orders will convert to being PSPOs but will continue to carry the previous conditions and penalties. These PSPOs will also last for a period of up to three years and lapse if not formally renewed at that time.

## **10. RESOURCE IMPLICATIONS**

- 10.1 Best practice requires that PSPO conditions are advertised by means of signage in the controlled areas. All areas which are currently subject to the specified controls of the proposed PSPO, namely either the requirement to have dogs on leads or the exclusion of dogs, are already signed to that effect, albeit under the extant Dog Control Orders. Should the proposed PSPO be approved, a programme will be drawn up to replace these with new signs advertising the current conditions and the penalties for breach of the PSPO. This will then be put forward as a funding proposal for 2018-19. It is estimated that the programme of signage installation will involve approx. 250 aluminium/plastic composite signs being manufactured and installed in designated sites with controls which require dogs to be on leads or where dogs are excluded, at a cost of approx. £12,000. This should be a one-off cost, as the signage will be durable and should not require replacement for a significant period.

- 10.2 The District-wide restrictions can be advertised, as currently, by the use of sticker signs displayed on lamp columns under an ongoing agreement with Balfour Beatty. Existing stickers are in stock advertising the controls of the requirement to remove faeces, the requirement to have dogs on leads and the exclusion of dogs. Stocks of these will continue to be maintained from existing Community budgets.
- 10.3 The PSPO, if approved, will be advertised across the District by means of media campaigns and on-line advertising. It is planned to provide generic publicity images which can be made available on demand to Town and Parish Councils for local use. These can be accommodated within existing budgets.
- 10.4 Targeted, intelligence-led enforcement activity will be carried out by officers from the Community Protection and Enforcement team, which was set up last year to deal with a wide range of environmental enforcement issues. The officers in this team are specifically trained in carrying out enforcement activities in a sensitive and proportionate manner and are fully briefed on the need to enforce against wilful anti-social behaviour rather than accidental or justifiable breaches.

## **11. EQUALITIES IMPACT ASSESSMENT**

- 11.1 In drafting the proposed PSPO, equalities issues have been considered and an Equalities Impact Assessment undertaken. No data exists on the proportion of dog owning residents locally who fall within the protected characteristics of the Equality Act 2010. However, it is considered that the PSPO will have no negative impact on all but one of the protected characteristics. It is considered that the conditions have the possibility to impact adversely on people with disabilities who rely upon assistance dogs. This possibility has been mitigated by the specific exclusion of persons in control of assistance dogs from the scope of the order.

## **12. REASONS FOR THE RECOMMENDED DECISIONS**

- 12.1 The proposed PSPO is considered to be an appropriate and proportionate response to the dog control issues which are being experienced in the District. The proposals have been strongly supported in the statutory consultation. Implementing this PSPO will give a robust framework for future enforcement in this priority area.

## **13. LIST OF APPENDICES INCLUDED**

1. Analysis of the consultation exercise.
2. Proposed Dog Control Public Space Protection Order.

## **14. BACKGROUND PAPERS**

None.

## **CONTACT OFFICER**

Finlay Flett, Operational Manager, People.

Tel No: 01480 388377

Email: [finlay.flett@huntingdonshire.gov.uk](mailto:finlay.flett@huntingdonshire.gov.uk)

**Huntingdonshire District Council Dog Control PSPO Survey****In what capacity are you replying to this consultation?**

Private individual	95.49%	339
Representing a business	0.28%	1
Representing an organisation	4.23%	15

**Are you a dog owner?**

Yes	59.60%	211
No	40.40%	143

**Are you any of the following?**

Veterinary professional (any capacity)	1.41%	5
Dog Walker	9.60%	34
Kennel owner	0.28%	1
None of these	88.70%	314

**Have you, or a member of your family, or someone you know had any problems regarding dog control in the past year?**

Yes (me)	49.30%	175
Yes (a member of my family)	13.80%	49
Yes (someone I know)	20.56%	73
No	40.56%	144

**If you answered Yes, was this related to any of the following?**

Dog fouling	75.81%	163
Dog running out of control	37.67%	81
Dog barking	31.16%	67
Dog off lead in a controlled area	27.91%	60
Dog attack on a dog or other pet animal	20.93%	45
Dog loose in children's play area	19.53%	42
Threatened by a dog's behaviour	18.60%	40
Stray dog	10.23%	22
Dog attack on a person	6.98%	15
Other	4.65%	10

**Do you think that Huntingdonshire should implement an order covering some aspects of dog control?**

Yes	88.35%	311
No	11.65%	41

**Do you think an order controlling dogs should cover the whole of Huntingdonshire or be limited to specific areas?**

All conditions to cover the whole of Huntingdonshire District	55.49%	197
Some conditions everywhere, others in specific areas	23.10%	82
Conditions only in specified areas	15.77%	56
No controls in any areas	5.63%	20

**Do you think that dog owners should be required to pick up and remove their dog's faeces (poo)?**

Yes, everywhere in Huntingdonshire	88.95%	314
Only in specified areas	10.76%	38
No	0.28%	1

**Do you think that dog owners should have to carry something with them to pick up their dog's faeces (poo) at all times?**

Yes, everywhere in Huntingdonshire	89.83%	318
Only in specified areas	6.78%	24
No	3.39%	12

**Do you think that dogs should be on a lead at all times?**

Yes, everywhere in Huntingdonshire	23.10%	82
Only in specified places	65.63%	233
No	11.27%	40

**Do you think that dogs should be banned from some places, like enclosed children's play areas?**

Yes	90.40%	320
No	9.60%	34

**Do you think that Council officers should be able to instruct dog owners to put their dog on a lead?**

Yes, everywhere in Huntingdonshire	52.39%	186
Only in specified places	39.44%	140
No	8.17%	29

**Do you think that the Council should introduce any other dog control measures?**

Yes	3.25%	11
No	74.85%	253

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**PUBLIC SPACES PROTECTION ORDER (Dog Control) 2017**

**The Order**

Huntingdonshire District Council ('the Council') in exercise of its powers pursuant to Section 59 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 ('the Act') hereby makes the following Order ('the Order') :

1. This Order shall come into operation on **20 October 2017** and shall have effect for a period of 3 years from that date.

**The areas to which the Public Space Protection Order (PSPO) applies;**

2. This Order relates to the areas (land to which this Order applies) within the administrative District of Huntingdonshire, as shown on the attached maps, and applies to all the land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).
3. For the purposes of this Order, any land which is covered is deemed to be land which is "open to the air" if it is open to the air on at least one side.

**Persons who the order applies to**

4. For the purposes of this Order a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.
5. Nothing in this Order applies to a person who is in charge of:
  - a. an assistance dog which has been trained to guide a blind person;
  - b. an assistance dog which has been trained to assist a deaf person;
  - c. an assistance dog which has been trained to assist a person who has a disability who has a disability of epilepsy or otherwise affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects; or
  - d. an assistance dog which has been trained to assist a person who has a disability (other than one described above) of a prescribed kind.
6. For the purposes of the Order, a "disability" means a condition that qualifies as a disability for the purposes of the Equality Act 2010 and an "assistance dog" has the meaning given by the Equality Act 2010
7. In this Order an 'authorised person' and 'an authorised officer of the Council' means any person authorised in writing for the purposes of this Order by Huntingdonshire District Council (the Council).

## **Impact of the Order**

8. The effect of this Order is to impose the following prohibitions and requirements on land to which this Order applies, specified as follows:

### **Dog faeces to be picked up and taken away or disposed of in a suitable bin**

9. In all land to which this Order applies, specified in Schedule 1 to the Order, if a dog defecates at any time on any part of the land, a person who is in charge of the dog at that time and who fails to remove the faeces from the land forthwith, shall be guilty of an offence unless:
- a. he has a reasonable excuse for failing to do so; or
  - b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
10. For the purposes of this Order:
- a. placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
  - b. being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

### **Persons in control of dogs to be required to carry a suitable receptacle for picking up and disposing of dog faeces, and to demonstrate this on request by an authorised officer**

11. In all land to which this Order applies, specified in Schedule 1, a person who is in charge of the dog shall, on instruction by a constable or authorised officer of the Council, demonstrate to the satisfaction of the constable or authorised officer that he has in his possession a device for or other suitable means of removing the dog's faeces.

### **Dogs to be placed on a lead upon request by any authorised officer**

12. In all land to which this Order applies, specified in Schedule 1, a person in charge of a dog shall be guilty of an offence if, at any time, he does not comply with a direction given to him by a constable or authorised officer of the Council to put and keep the dog on a lead of not more than 2 metres in length unless:
- a. he has a reasonable excuse for failing to do so; or
  - b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
13. A constable or authorised officer of the Council may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

### **Dogs to be kept on a lead at all times in specified areas**

14. In any land to which this Order applies, as specified in Schedule 2, a person in charge of a dog shall be guilty of an offence if, at any time, he does not keep the dog on a lead of not more than 2 metres in length, unless:
- a. he has a reasonable excuse for doing so; or
  - b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

### **Dogs to be excluded at all times in specified areas**

15. In any land to which this Order applies, as specified in Schedule 3, a person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on to any part of the land unless:
- a. he has a reasonable excuse for doing so; or
  - b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

### **Enforcement of the conditions of this Order**

16. It is an offence for a person without reasonable excuse to do anything prohibited by this Order, or to fail to comply with a prohibition or requirement to which a person is subject to pursuant to this Order.
17. A Police Constable, a Police Community Support Officer or an 'authorised person' may issue a Fixed Penalty Notice (FPN) to anyone he or she has reason to believe has committed an offence under this Order.
18. A person found to be in breach of this Order is liable upon summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000.00); or to be made subject to a FPN of £100.00.
19. The Council is satisfied that the conditions set out in Sections 59 and 72 of 'the Act' have been met: that activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality; and that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by this notice. The Council believe that it is reasonable to impose the above prohibitions and requirements in order to prevent the detrimental effect from continuing, occurring or recurring, and to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
20. Any interested person (an individual who lives or regularly visits or works) in land to which this Order applies who desires to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, may apply to the High Court within six weeks from the date upon which this Order is made.



[Date] Sealed as Deed on behalf of Huntingdonshire District Council

the Common Seal being affixed in the presence of and signed by:

Authorised Signatory

**Schedule 1 - the areas subject to the conditions: (1) Dog faeces to be picked up and taken away or disposed of in a suitable bin; (2) Persons in control of dogs to be required to carry a suitable receptacle for picking up and disposing of dog faeces, and to demonstrate this on request by an authorised officer; (3) Dogs to be placed on a lead upon request by any authorised officer.**

The entire administrative district of Huntingdonshire.

**Schedule 2 - the areas subject to the Dogs On Leads condition**

**Land Designated by Description**

All road carriageways with a speed limit of 40 mph or less and adjoining footpaths and verges.

AND

**Land Designated Specifically**

Eaton Ford- Riverside Park, St Neots Road, Eaton Ford, St Neots: That part of the lands situated to the south of St Neots Road and west of the River Great Ouse and excluding those fenced areas which contain children's play equipment.

Eaton Ford- Sudbury Meadow, Crosshall Road, Eaton Ford, St Neots: That part of the lands situated to the north of Cavendish Court which abuts Crosshall Road and with the north and west boundary being dense tree/fence lined.

Hartford- Hartford Meadow, Church Lane, Hartford, Huntingdon: That part of the lands known as Hartford Meadow situated between Church Lane and the River Great Ouse, Huntingdon.

Hartford- Marylands Avenue, Hartford, Huntingdon: The whole of the park excluding the area which is fenced and contains children's play equipment.

Houghton- Houghton and Wyton Playing Fields, Houghton. All of the area of land known as Houghton and Wyton Playing Fields, bounded by St Ives Road, Victoria Crescent, Laughtons Lane and the A1123.

Huntingdon- Riverside Park, Riverside Road, Huntingdon: That part of the lands situated to the south of the tree/fence line commencing from a point opposite East Street, leading from Hartford Road to the River Great Ouse and with the southern boundary being opposite the Bridge Hotel with the River Great Ouse to one side and River Road/Hartford Road to the north-west, excluding those fenced areas which contain children's play equipment.

Huntingdon- Hinchbrook Country Park, Hinchbrook Park Road, Huntingdon: That part of the park known as the Wildlife Area consisting of the western part of Bob's Wood and including the triangular plantation to the south of the area. This area lies to the west of a track running north-north-east from a point 250 metres to the west of the Visitors Centre. It is bounded on the north by a housing estate and on the west by a fence.

St Ives- Wilhorn Meadow, London Road, St Ives: The land situated to the east of Bridge Terrace and west of the River Great Ouse, St Ives.

Little Paxton- Playing Fields, High Street, Little Paxton: The whole of the playing field including the access road and car park, excluding the area which is fenced and contains children's play equipment.

### **Schedule 3 - the areas subject to the Dogs Exclusion condition**

#### **Land Designated by Description**

All lands within the Council's administrative area that is fenced and/or hedged and/or walled and signed at the entrance as a "dogs exclusion area" (whether the sign uses these particular words or words and/or symbols having like effect) and comprises of: children's play areas; bowling greens; croquet lawns; tennis courts; sporting or recreational facilities; skateboard parks; cycle enclosures; putting greens; or parks.

AND

#### **Land Designated Specifically**

Bluntisham- The Bluntisham Recreation Field:- All land within the area bounded by Colne Road and Mill Lane, known as the Bluntisham Recreation Field but not including that part of the playing field which is fenced and contains children's play equipment or the fenced and/or hedged area designated as a dog walking area.

Eaton Ford- Playground, River Road, Eaton Ford, St Neots: That part of the park situated to the south of the Indoor Bowling Club, off River Road, which is fenced and contains children's play equipment.

Eaton Ford- Playground, Riverside Park, St Neots Road, Eaton Ford, St Neots: That part of the park adjoining the main St Neots Road which is fenced and contains children's play equipment.

Eynesbury- Playground, Coneygeare Park, Hardwick Road, Eynesbury, St Neots: That part of the park situated to the north east of the car park which is fenced and contains children's play equipment.

Hartford- Playground, Marylands Avenue, Hartford, Huntingdon: That part of the park which is fenced and contains children's play equipment.

Hartford- Playground, Sapley Road, Hartford, Huntingdon: That part of the park which is fenced and contains children's play equipment.

Huntingdon- Town Park, Brookside, Huntingdon.

Huntingdon - Playground, Nursery Road, Huntingdon: That part of the park which is fenced and contains children's play equipment.

Huntingdon – St John's Churchyard, High Street, Huntingdon.

Huntingdon - Playground, Riverside Park, Riverside Road, Huntingdon: That part of the park adjoining the main car park off Harford Road which is fenced and contains children's play equipment.

Somersham- The Millennium Sports Field, The Trundle, Somersham.

Somersham- Norwood Playing Field: All land within the area bounded by Parkhall Road, The Trundle, Ditchfields, The Green, Green End Walk and Coronation Avenue

known as the Norwood Playing Field but not including that part of the playing field which is fenced and contains children's play equipment.

St Ives- Holt Island, Church Street, St Ives: That part of the island lying south of the Sea Scouts Headquarters facing towards the bridge, St Ives.

St Neots - Playground, Priory Hill Park, Priory Hill Road, St Neots: That part of the park adjoining the southern boundary of the park which is fenced and contains children's play equipment.

Warboys- Adam Lyons Playing Field, Church Road, Warboys

## Key Decision - No

### HUNTINGDONSHIRE DISTRICT COUNCIL

<b>Title:</b>	Monitoring Report on the Delivery of the Food Law Enforcement and Health and Safety Service Plans
<b>Meeting/Date:</b>	Licensing and Protection Committee – 20 September 2017
<b>Executive Portfolio:</b>	Executive Councillor for Community Resilience, Well-Being and Regulatory Services, Cllr Angie Dickinson
<b>Report by:</b>	Operational Manager (Business) – Susan Walford
<b>Ward(s) affected:</b>	All

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#### **Executive Summary:**

The Food Law Enforcement Service Plan and Health and Safety Service Plan 2017-18 were approved by committee in June 2017.

This monitoring report covers the period from 1 April 2017 to 31 August 2017. The first five months of the implementation of these plans. In general terms the monitoring report accounts for work undertaken by the Business Team within the defined period and compares this to the service plan to ensure that the service is on target to deliver the programmed work.

Programmed work is delivered alongside reactive work, the volume of which by definition is impossible to predict. This work is carried out according to risk. Complaints and accident investigations are prioritised using risk-based selection criteria, and the volume of work is reported here to attempt to identify any emerging risks in terms of resource provision.

Appendices 1 and 2 contain detailed information about the delivery of the Food Law Enforcement Service Plan. Appendix 3 contains detailed information about the delivery of the Health and Safety Service Plan.

#### **Recommendation(s):**

Members are requested to:-

1. Note progress on the delivery of the two Service Plans for the period 1 April 2017 to 31 August 2017

## **1. PURPOSE OF THE REPORT**

- 1.1. The report provides information about the delivery of the two Service Plans for the period between 1 April 2017 and 31 August 2017.

## **2. WHY IS THE REPORT NECESSARY?**

- 2.1 Members have asked to be kept informed about the delivery of the work in the approved plans.

## **3. A DESCRIPTION OF THE SERVICES COVERED BY THE REPORT**

- 3.1 Food Law Enforcement consists of the following areas of work:

- a) Planned activities such as routine inspections of food businesses, food and environmental sampling and the provision of food hygiene training courses;
- b) Unplanned (reactive) work such as the investigation of customer complaints, dealing with requests for compliance advice and following up notifications of food poisoning;
- c) Liaison with other departments in the interests of coordinated service delivery: in particular licensing and planning;
- d) Supporting national strategies and the wider public health agenda.

- 3.2 Health and Safety regulation consists of these areas of work:

- a) Planned activities such as unannounced inspections of high risk businesses and targeted interventions in line with the HSE's strategic aims;
- b) Unplanned (reactive) work such as the investigation of notifiable accidents, prescribed diseases, complaints and dealing with serious risks that are identified during other activities (Matters of Evident Concern);
- c) The provision of compliance advice to businesses.

## **4. PROGRESS AGAINST THE APPROVED PLANS**

- 4.1 Appendices 1 and 2 relate to the delivery of the Food Law Enforcement Service Plan.

- 4.2 Appendix 1 compares the recorded activity in each of the programmed work service areas with the predicted activity in the approved Service Plan.

- 4.3 The key activities of scheduled inspections, compliance revisits, inspections of new businesses and sampling visits are all green. The alternative enforcement strategy is currently at amber; this is not currently a concern as these are our low risk premises and will be picked up in the latter part of the year. Current enforcement activity is low with businesses generally compliant, however one Huntingdonshire business is resisting support to bring them to compliance resulting in consideration of formal action in line with our enforcement policy.

- 4.4 Our new format food hygiene training programme was launched over the summer and bookings have been going well. There are four sessions planned and more can be organised if there is sufficient demand.

- 4.5 Primary Authority work has centred on our existing partner, Cambridgeshire Catering Services to review the terms and conditions of the agreement in line with the revised Statutory Guidance which reflects the changes to the scheme introduced by the Enterprise Act 2016. The review needed to be completed prior to transition to the new Primary Authority website on 1 October 2017 and following this we will agree a work programme with CCS to provide them with tailored assured advice that supports business compliance with regulations. The 2016 Act aims to extend and simplify the process enabling all UK businesses to benefit including pre-start-ups. Regulatory

Delivery the section of government who promote primary authority expects 250,000 businesses to be included by 2020.

4.6 The service plan also refers to two new initiatives that are being explored for roll out by the team.

1. Discussions around Better Business for All, have been held with Regulatory Delivery and the Growth Hub to plan next steps, resulting in an agreement from RD to support a county-wide workshop to introduce the project to all stakeholders. It is envisaged that this will take place in early December, bringing together business representatives such as the LEP, Chamber of Commerce and the Federation of Small Businesses with local regulators to identify the issues facing local businesses, and to then shape the provision of effective support to promote compliant economic growth.
2. Development of the plan to implement the Healthier Options programme is progressing. A multi-pronged approach will identify areas where there is a higher incidence of obesity in the district and activity will be targeted on these areas to increase the number of outlets that provide a healthier fast food. The scheme will also be generally promoted and any business wishing to be part of the initiative will be supported to implement the necessary changes. It is hoped that the One Leisure Zest Cafes along with Brookes in Pathfinder House, and the café at Hinchingsbrooke Country Park will become early adoptors of the scheme once their new menus are launched, joining the staff canteen at Acushnet Ltd in St Ives. The business team are looking at ways to evaluate the programme in terms of the health benefits to customers although this is proving challenging owing to the variables involved.

4.7 A further round of consultation has been undertaken by the Food Standards Agency on the Regulating our Futures programme. This is the new strategic plan for delivering food safety and standards in the UK. The aim is a sustainable, flexible and adaptive system designed to leverage changes in business's behaviour, rather than to deliver regulation in the traditional sense. Proposals aim to lead to a different balance of activities at local authority level, all contributing to food being safe by building a modern, risk-based, proportionate, robust and resilient system. There are three main elements :

- Enhanced registration focussing on capturing better information on which to identify and manage risk across the food chain.
- Risk segmentation. Including two new categories, "consistently compliant" and "no inspectable risk" taking account of factors such as change of ownership, data from other agencies and the nature of the business. We will then be able to make proportionate decisions inspection and assurance schemes.
- Developing confidence in businesses that they are doing the right thing. Depending on how good the information is that businesses provide, including their past performance, we will set the frequency and type of inspection activity. The Food Hygiene Rating system will continue and it is proposed that display will become mandatory.

The Food Standards Agency recently wrote to all Local Authorities asking that these proposals are brought to the attention of members. Further details of why legislation needs to change and how the FSA propose to implement this can be found at <https://www.food.gov.uk/news-updates/news/2017/16363/fsa-publishes-plans-future-regulation>. It is envisaged the new programme will be largely in place by 2020.

4.8 Appendix 2 refers to the unplanned (reactive) work. The number of customer complaints and service requests is driven by demand, so they are closely monitored and prioritised according to risk using publicly available selection criteria. Any intelligence emerging around trends can be used to inform proactive work through education or enforcement action.

- 4.9 The Health and Safety Service Plan (Appendix 3) also contains a mixture of programmed work, reactive work and the provision of compliance information and advice.
- 4.10 There do not appear to be any emerging issues at this point however it is important that complaints are considered according to risk and approached in a proportionate manner. The number of complaints and service requests is monitored closely and it may be necessary to introduce some selection criteria if the numbers continue to rise. Accident investigations are already selected according to established selection criteria. Resources continue to be channelled into investigation and research around the recent work place death reported at Hamerton Zoo. Liaison with the police, HSE and the wider zoo community involves considerable officer time whilst we prepare for the coroner's hearing in November.
- 4.11 Officers continue to witness serious health and safety problems whilst carrying out other duties. These are identified as "Matters of Evident Concern" (MEC). The frequency with which they are reported is an indication of the extent to which businesses fail to manage serious risks without our intervention.

## **5. RISKS**

- 5.1. The failure to monitor the delivery of the approved Service Plans could invite criticism from the Food Standards Agency and the Health and Safety Executive in their capacities as the national regulators.
- 5.2. Members have asked to be kept informed about the delivery of the approved Service Plans in order that they can comment on the way in which the service is provided as well as the available resources.

## **6. LINK TO THE CORPORATE PLAN**

- 6.1. These reporting arrangements support the wider corporate objectives to "*Improve the efficiency of service delivery and become more business-like*" and to "*drive service priorities*".

## **7. LEGAL IMPLICATIONS**

- 7.1 None

## **8. RESOURCE IMPLICATIONS**

- 8.1 The failure to report the delivery of the approved Service Plans may prejudice the Council's ability to provide the necessary resources.

## **9. OTHER IMPLICATIONS**

- 9.1. None.

## **10. REASONS FOR THE RECOMMENDATION**

- 10.1. To keep Members informed about the delivery of the approved Service Plans.

## **11. APPENDICES**

Appendix 1 - Food Safety Service Plan: Programmed (Proactive) Activity  
Appendix 2 - Food Safety Service Plan: Reactive Activity  
Appendix 3 - Health and Safety Activity



## CONTACT OFFICERS

Mr Chris Stopford  
Head of Community  
Tel: 01480 388280

Mrs Susan Walford  
Operational Manager (Business)  
Tel 01480 388002

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## Appendix 1 – Food Safety Service Plan: Programmed (proactive) Activity

Proactive Tasks	Level of Activity		Progress
	Predicted activity 2017-18	Recorded activity 1 April 2017 – 31 August 2017	RAG Status
Programmed food hygiene inspections (risk group A-D, in addition to those below)	444	144	Green
Alternative Enforcement Strategy (AES) (e.g. cake makers and childminders)	229	12 assessed (25 sent)	Amber
Revisits	100	13	Green
Inspections of or visits to new food businesses <sup>1</sup>	130	66	Green
Visits to Approved Establishments	8	2	Green
Primary Authority Partnership Activity – includes requests for advice, attendance at meetings and provision of training <sup>2</sup>	10	3	Green
Other proactive visits (food, water and environmental samples/advisory)	220	89	Green
Prosecutions and cautions	2	0	Green
Formal action (service of notices, closures)	20	1	Green
Food safety and public health promotion	<ul style="list-style-type: none"> <li>• The food hygiene training programme has been reviewed and updated</li> <li>• Opportunities to provide bespoke training are being pursued with businesses who show an interest</li> <li>• Primary authority meetings continue.</li> <li>• Good progress has been made on the implementation of the Healthier Options Project</li> <li>• An introductory workshop to</li> </ul>		Green

	<p>BBfA is being arranged for stakeholders in the area</p> <ul style="list-style-type: none"><li>• Engagement with the Food Standards Agency who have undertaken a further round of consultation on Regulating our Future.</li></ul>	
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### Notes

1. *New businesses continue to be unpredictable – the definition includes both brand new start-up businesses as well as those that are changes of ownership or food business operator within an existing business. All have to be added to the premises database and visited as soon as possible. New businesses are triaged to ensure that the brand new higher risk start-ups receive support and visits to clarify any queries they have around the requirements for compliance.*
2. *Officer time spent on Primary Authority Agreements such as that with Cambridgeshire Catering and Cleaning Services (CCS) are recharged to the business in line with the agreed cost recovery arrangements.*

## Appendix 2 – Food Safety Service Plan: Reactive Activity

Reactive Tasks	Level of activity		Risk Monitoring
	Predicted Activity 2017-18	Recorded activity 1 April 2017 – 31 August 2017	RAG Status
Complaints and service requests about food and about/from food businesses	650	244	Green
Food, water and environmental samples taken	100	15	Green
Infectious disease control - notifications of food-borne/food poisoning illnesses	80	39	Green
FSA food alerts for action	5	0	Green

### Notes

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### Appendix 3 – Health and Safety Activity

Type of Activity	Level of Activity		Progress Status (Green, Amber, Red)
	Predicted Activity 2017/18	Recorded Activity 1 April – 31 August 2017	
Premises inspections and interventions (including revisits)	100	16	Green
Health and safety complaints and requests for service received <sup>1</sup>	75	40	Green
Accident and dangerous occurrence investigations commenced <sup>2</sup>	25	2 25 Notifications 15 investigated	Green
Specific smoke free enforcement visits <sup>3</sup>	10	0	Green
Matters of Evident Concern (MEC) Identified <sup>4</sup>	30	3	Green
Health and safety promotion and advice to business/enquiries	1 not counted elsewhere		Green
Liaison with other organisations	Three meetings of the Cambridgeshire and Peterborough Food and Occupational Health and Safety Managers Group		Green

#### Notes

1. This figure includes statutory notifications about working with asbestos, Adverse Insurance Reports (AIR) about unsafe work equipment and requests for advice and information. The diversity of work illustrates the importance of maintaining resources in order that effective investigations can be carried out.
2. The selection of accidents for investigation is founded upon the risk-based criteria in Local Authority Circular (LAC) 22/13.
3. This figure is driven by the number of relevant complaints received by the service.
4. Matters of Evident Concern are significant health and safety problems that officers have noted during non-health and safety activities.

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**Public  
Key Decision No**

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Title/Subject Matter:** Consultation on a draft Hackney Carriage and Private Hire Licensing Policy

**Meeting/Date:** Licensing and Protection Committee – 20 September 2017

**Executive Portfolio:** Executive Councillor for Community Resilience, Well-Being and Regulatory Services, Cllr Angie Dickinson

**Report by:** Head of Community – Chris Stopford

**Ward(s) affected:** All

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### **Executive Summary:**

To approve a draft taxi licensing policy for public consultation. The cost of consultation and implementing the policy will be financed from receipt of licence fees.

The service currently operates within a number of separately published policies and procedures, but has no overarching policy document. It is now considered that a dedicated taxi policy statement be formulated and published.

The draft policy addresses new and recent statutory duties placed upon the Council, it provides an opportunity to re-visit a number of existing policies and procedures and enables consideration of the introduction of a number of new discretionary initiatives to raise standards.

### **Recommendation(s):**

It is recommended that:

1. Members approve the draft taxi licensing policy for public consultation, attached as an appendix to the report.
2. The Head of Community be authorised to make any amendments to the draft policy that are considered necessary as a result of any comments received from the public consultation exercise, or arising from any further legislation or guidance received during the drafting period.
3. The revised final draft is put before the Licensing Committee in January 2018 for approval, with a view to implementation with effect from 1<sup>st</sup> April 2018.

## **1. PURPOSE OF THE REPORT**

- 1.1 The Council has a duty to provide a safe and secure taxi service to the public which provides value for money. Between 1 April 2015 and 31 March 2017, the number of drivers and vehicles licensed within the district increased by 31% and 17% respectively. The service currently operates within a number of separately published policies and procedures, but has no overarching policy document. It is now considered that a dedicated taxi policy be formulated, consulted upon and published.
- 1.2 The purpose of this report is to invite members to approve the draft policy for public consultation. Following consultation, a final draft will be prepared, taking into account the consultation responses.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The introduction of a policy provides the ability to state and extend our aims and objectives to include additional areas such as protection from harm, environmental sustainability and crime and disorder. It also provides an opportunity to review, update, introduce or discontinue elements to ensure they are LEAN and customer led.
- 2.2 Some matters for consideration are statutory, others are in line with our corporate plan, or provide positive improvements to standards. Our standards going forward will determine our position in the market and include measures to support the local community.
- 2.3 All policies, processes and procedures will be fully transparent and available to view on line. A policy, once introduced, may need regular updating to reflect changes, but will provide a customer focused and readily available service for the trade and the public

## **3. OPTIONS CONSIDERED/ANALYSIS**

- 3.1 It is considered necessary to introduce a new dedicated taxi licensing policy.
- 3.2 The following legislative elements must be included:
  - The operation of 3 year licences for drivers and 5 year licences for operators with effect from 1.4.18 with the option for 1 year licences, if appropriate
  - To include new statutory provisions relating to the Immigration Act 2016 and right to work in the UK.
  - To include new statutory provisions relating to the Equality Act 2010.
- 3.3 The following are examples of good practice/ providing a safe and secure taxi service to the public/ raising standards:
  - The introduction of new elements of training for drivers on child sexual exploitation, safeguarding and disability awareness.
  - To review the conditions for drivers, vehicles and operators.
  - To update the Council's guidelines relating to the relevance and treatment of convictions.
  - To introduce a local knowledge test for new drivers.
  - To introduce an English/ Maths test
  - Imposing an age limit on licensed vehicles.
  - Consideration of a more uniform appearance for Hackney Carriage Vehicles.

- Consideration of mandatory door stickers for Private Hire Vehicles.
  - Consideration of new requirements for operators, including a sliding scale of fees and a requirement to have a documented complaints procedure.
- 3.4 Delegations of authority will be altered as a separate exercise to be smart and appropriate and to enable decisions to be quickly arrived at.
- 3.5 The penalty point system will be discontinued and new forms for new processes will be drawn up as appropriate.
- 4. KEY IMPACTS / RISKS**
- 4.1 We have a duty to implement government legislation and are advised to adopt government guidance. If we do not do so, then we are open to legal challenge.
- 4.2 Policies and procedures provide evidence of our stance on taxi licensing matters. A policy will be transparent, will aid consistency of practice and will be made available to the public.
- 4.3 The absence of an overarching policy could impact upon the ability for drivers and customers to easily access relevant information.
- 5. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION**
- 5.1 Public consultation and engagement with the trade will be undertaken between October and December 2017.
- 5.2 A further draft policy will then be drawn up, taking into account all responses received from the consultation and will be presented to the Licensing and Protection Committee in January 2018 for final approval.
- 5.3 The draft policy will also be put before the Overview and Scrutiny Committee on 31 October 2017
- 5.4 It is proposed that implementation of the policy/ proposals will take effect on 1 April 2018.
- 6. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES**
- 6.1 This opportunity can be used to review and simplify other related areas, ensuring that our processes are LEAN, customer focused and provide value for money. The introduction of safeguarding and child exploitation training will be a positive move in support of the Council's corporate plan.
- 7. CONSULTATION**
- 7.1 The development of a policy was put before the Policy Development Group meeting on 23 May 2017 and the Licensing and Protection Committee on 5 July 2017, where it was acknowledged that it would be beneficial to have an overarching policy statement containing all the relevant information in one place that a potential driver or operator could easily access and understand.
- 7.2 Before determining the policy, we propose to consult with the trade and the public over a twelve week period between 29 September and 22 December 2017, in accordance with Cabinet Office guidelines.

- 7.3 All comments received will be considered and reported back to the Licensing and Protection Committee in January 2018. It will be for the Licensing Authority to ensure that it looks at the views of consultees in considering whether they should be taken into account and to what extent.

## **8. LEGAL IMPLICATIONS**

- 8.1 Legal implications may arise as a result of non-compliance with legislation, leaving us open to challenge and the possibility of costs being awarded against the Council. An overarching policy will clearly state the way in which the Council will undertake its statutory duties.

## **9. RESOURCE IMPLICATIONS**

- 9.1 There will be a staff resource implication for completion of the work to be undertaken, but this can be met from within existing resources. Some costs can be absorbed within licence fees, but others will need to be borne by the applicant.

## **10. REASONS FOR THE RECOMMENDED DECISIONS**

- 10.1 The actions proposed will redefine and determine our position within the market going forward and will provide an easily accessible overarching document setting out our policy on taxi matters.

## **11. LIST OF APPENDICES INCLUDED**

Appendix 1 – Draft policy.

### **BACKGROUND PAPERS**

LGA example taxi & PHV licensing criminal convictions policy template – Feb 2017

Various existing documents relating to conditions for drivers, vehicles and operators

### **CONTACT OFFICER**

Christine Allison, Licensing Manager  
Tel No: 01480 387075

Huntingdonshire District  
Council

Hackney Carriage and Private  
Hire

Draft Licensing Policy



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## Definitions

The Council	Means Huntingdonshire District Council
The Licensing Authority	Means the licensing function within Huntingdonshire District Council
The Controlled District	Boundary area of a local authority which has adopted the provisions of the 1976 Act
Licensing and Protection	Is the committee which determine licensing matters as set out in the Council's constitution
Authorised Council Officer	A council officer who is authorised by the council to exercise powers and duties conferred by legislation
This Policy	Is this policy document and appendices
Applicant	Is a person or business who has submitted an application for either a grant or renewal of a licence
Licensed Vehicle	Is a vehicle which is licensed under the 1847 Act as a hackney carriage or licensed under the 1976 Act as a private hire vehicle
Proprietor	Is the registered owner or part owner of a vehicle
Taximeter	Is the device used for calculating the fare to be charged for the journey by measuring distance travelled plus any time waiting. Fitted in all hackney carriage vehicles and some private hire vehicles
Fare Card	Is a card which must be displayed in vehicles that are fitted with a taximeter which indicates the maximum authorised fare to be charged for distance travelled, waiting time and soilage charge.
The Licence Plate	The plate which licensed vehicles must display which shows the licence number, the maximum amount of persons to be carried, expiry date, vehicle registration number, and make and colour of vehicle
Date of First Registration	Means the date shown as the date of first registration on the vehicle's V5 logbook issued by DVLA
Driving licence	A full UK driving licence issued by DVLA or acceptable equivalent as defined by DVLA
Licensed Driver	A driver licensed under the 1847 Act to drive a hackney carriage vehicle or under the 1976 Act to drive a private hire vehicle.
Badge	Issued to all licensed drivers and must be worn when working as a licensed driver
Operator	The business which invites and accepts bookings for private hire work
Private Hire Vehicle	A vehicle licensed under the 1976 Act
Door Stickers	Door stickers which must be permanently affixed to doors of vehicles, displaying the Huntingdonshire District Council logo and suitable wording to differentiate between private hire and hackney carriage vehicles.
Hackney Carriage Vehicle	A vehicle licensed under the 1847 Act commonly referred to as a taxi
DBS	Disclosure and Barring Service
DVLA	Driver and Vehicle Licensing Agency
DfT	Department for Transport
DVSA	Driver and Vehicle Standards Agency (which replaced VOSA in 2014)
The Equality Act	Means the Equality Act 2010
Assistance Dog	Is a dog which is trained to assist people with disabilities to help them with their day to day life
Conditions	Mean the conditions of licence applied by the Council to either a driver's licence, an operator's licence or a vehicle licence.
The 1847 Act	The Town and Police Clauses Act 1847 and the provisions within
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within
Road Traffic Acts	Including all associated legislation
PSV	Public Service Vehicle
WAV	Wheelchair Accessible Vehicle
Byelaws	Locally adopted 'conditions' applicable to hackney carriage drivers
CoC	Certificate of Compliance

## Section 1 - Introduction

### Policy Purpose, Status and Scope

- 1.1 This document sets out Huntingdonshire District Council's Hackney Carriage and Private Hire Licensing Policy on the licensing of Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators. The purpose of the policy is to provide guidance and information on the general approach taken by Huntingdonshire District Council when administering its functions within the legislative framework of the 1847 and 1976 Acts.
- 1.2 This policy also sets out the legislative framework administered by the Licensing Authority in respect of such licences, however it is not a comprehensive statement of the law. This policy does not override the legal requirements embodied in any legislation in force at the time of adoption or as may be enacted after the adoption of the policy. Where any subsequent changes occur to applicable legislation, or its interpretation by the courts that conflict with this policy, the conflicting elements shall not apply and will be amended at the earliest opportunity.
- 1.3 The legislation places a duty on the Council as the Licensing Authority for licensing Hackney Carriage and Private Hire vehicles, drivers and operators. Hackney Carriage and Private Hire Vehicles play a vital and integral in an integrated public system and the importance of a thriving Hackney Carriage and Private Hire trade to the growth and prosperity of Huntingdonshire District's local economy is recognised.
- 1.4 The Licensing Authority understands the importance and responsibility it has in ensuring that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required, and that drivers and operators are "fit and proper" (i.e. safe and suitable) to undertake the role. However the safety and welfare of the public is the overriding principle that will be considered when matters are dealt with under the policy.
- 1.5 This policy is intended to put the Council's licensing requirements into context for all parties in a clear and transparent manner.

### Aims

- 1.6 The Department for Transport best practice guide states the aim of the Licensing Authority is to protect the public. In setting out this policy, the Licensing Authority seeks to carry out its licensing functions with a view to promoting the following aims:
  - The safety and protection of the public; to include driver conduct and performance, consideration of their history of convictions and cautions, knowledge of the area, health and fitness to fulfil the role of a licensed driver and vehicle specifications.
  - Vehicle safety, comfort and access; to include standard of vehicle comfort and appearance and accessibility of facilities.
  - The prevention of crime and disorder: including working with the Police and other relevant agencies, operation of a planned and unplanned compliance and enforcement programme, driver, vehicle and operating conditions, fit and proper processes and support with local businesses.
  - The protection of children and vulnerable persons at risk from harm; including safeguarding requirements and training, co-operation with other agencies, robust reporting and determination of fit and proper persons.

In addition it will provide a service that is value for money.

- 1.7 This policy recognises that the licensing function is only one means of securing the delivery of the above aims. The Licensing Authority will therefore continue to work in partnership with the trade, its neighbouring authorities, the police, other enforcement agencies, local businesses and local people toward the promotion of the aims.
- 1.8 Each decision, application or enforcement measure will be considered on its own merits, using the policy as a main guideline. However, where and if considered necessary, the Licensing Authority may depart from the policy, but will provide clear and compelling reasons for doing so.
- 1.9 This policy is not a comprehensive statement of the law, applicants should always obtain their own legal advice if they are unsure of the requirements of legislation.

### **Powers and duties**

- 1.10 This policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (as amended) which places duties on the Council to carry out its licensing function.
- 1.11 In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above.
- 1.12 In undertaking its licensing function, the Licensing Authority will also have regard to other relevant legislation including:
- Transport Act 1985 and other associated Road Traffic Acts
  - Road Vehicles (Constructions and use) Regulations 1986
  - Crime and Disorder Act 1998
  - Data Protection Act 1998
  - Human Rights Act 1998
  - Environmental Protection Act 1990
  - Equality Act 2010
  - Health Act 2006 and Smoke-free Regulations 2006/7
  - Legislative and Regulatory Reform Act 2006
  - Road Safety Act 2006
  - Immigration Act 2016
  - Policing and Crime Act 2017
- 1.13 This document sets out the policy that the Licensing Authority will apply when making decisions about new applications and licences currently in force.

### **Consultation and Revision**

- 1.14 This policy and appendices will be kept under review and revised as appropriate, in any event, not less than five years from the date of its last adoption. The Authority will consult, where appropriate, on proposed revisions, to reflect changes in case law and legislation. The Licensing and Protection Committee may make any amendments to the policy and appendices. Sections of the policy may be updated and amended without the whole policy being consulted upon.
- 1.15 Consultation will take place with the following:  
Huntingdonshire Hackney Carriage Representatives  
Taxi and private hire drivers and proprietors  
Huntingdonshire private hire operators  
District and Parish councillors  
Cambridgeshire County Council Passenger Transport  
Local Children's Safeguarding  
Cambridgeshire Constabulary – Chief Constable of Police

Huntingdon Chamber of Commerce  
Neighbouring Licensing authorities  
General public

- 1.16 The consultation will appear on the Council's website advising the nature of the consultation and period.

### **Implementation**

- 1.17 This policy shall take effect from 1 April 2018 and will override and supersede all existing Council policy and guidance in relation to Hackney Carriage and Private Hire Licensing. The Authority expects all licence holders to comply with its terms immediately, but it is acknowledged that certain provisions may place financial obligations on existing licence holders and accordingly the Authority is prepared to permit a transitional period, during which time necessary changes must be made.
- 1.18 The published policy will be made available on the Council's website and at the Council's offices at Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN, during office hours.

### **The Licensing Regime**

- 1.19 Some activities are considered to be of such a risk to the safety of members of the public that that law requires an approval to be in place in the form of a licence to regulate that activity. This is the case for the Hackney Carriage and Private Hire trade, who make themselves available for hire to transport members of the public to their chosen destination in return for reward. The legislation creates three types of licence:
- Drivers (This Authority issues a dual Hackney Carriage and Private Hire driver's licence)
  - Vehicles (Hackney Carriage and Private Hire)
  - Operators (Private Hire only)
- 1.20 A journey not carried out in accordance with the correct licences is not only illegal, but is likely to invalidate the insurance held by the driver and could have serious consequences for all parties involved should an accident occur.
- 1.21 A Hackney Carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means it can stand at ranks or be hailed in the street by members of the public.
- 1.22 Private Hire Vehicles must have no more than 8 passenger seats and must be booked in advance by customers through an operator and may not ply for hire in the street.
- 1.23 Vehicles that are required to carry more than 8 passengers for hire and reward are classed as Public Service Vehicles (PSV) and the Licensing Authority has no involvement in the licensing of these vehicles.
- 1.24 Any person who carries out hire and reward work without the correct licences, would be breaking the law and therefore would not have valid insurance. This can have serious consequences for all parties involved, if an accident or incident occurs.
- 1.25 In order to be licensed correctly the licenses must 'match', i.e. issued by the same local authority. A Hackney Carriage vehicle and the driver must be licensed by the same local authority. For Private Hire, the operator, driver and vehicle must be licensed by the same authority. This does not prohibit the operator subcontracting a booking to another operator licensed by a different local authority.

- 1.26 The legislation places a duty on the local authority to only licence those who are considered to be 'fit and proper'. The term 'fit and proper' is not defined in legislation but 'safe and suitable' would be considered an acceptable interpretation and its widest interpretation should apply.
- 1.27 The legislation allows local authorities to set their own conditions, requirements and application processes.
- 1.28 The aim of the legislation is to ensure that the public have reasonable access to these services and to ensure the public are protected. Public safety is paramount and has a wide scope, including public safeguarding, protecting vulnerable persons and public wellbeing. To achieve this aim and to meet our obligations, the Council have conditions and processes in place to promote well run, safe and responsible businesses.

### **Information sharing**

- 1.29 In the interests of protecting public funds, the Council reserve the right to use any information or data submitted as part of an application, renewal, administration or compliance and enforcement process for the prevention and detection of fraud and crime.

### **Data Protection Act 1998 – Privacy Notice – Fair Processing**

The Council is registered under the Data Protection Act 1998. This allows it to process personal data in performing its lawful business. Information held by the Council, including personal data provided now or in the future, will be processed in compliance with data protection principles. Personal data may be used to manage, monitor, improve and promote the Council's services. Where delivery of services or actions in partnership with others, or dependent on the actions of others, it may also be shared with other persons or bodies in accordance with, and restricted to the terms of information sharing agreements and protocols. To protect public funds it may also be shared with other persons or bodies to prevent and detect fraud. Further details are available on the Council's website [www.huntingdonshire.gov.uk/privacy](http://www.huntingdonshire.gov.uk/privacy). For concerns about the processing of personal data by the Council you may contact the Data Protection Officer at Huntingdonshire District Council, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN or the Office of the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

- 1.30 **Trust ID:** The Council has introduced the use of electronic scanners to check and verify identity documents from all customers applying to access Council services. This Authority will scan documents with a product called Trust ID. You can find further information about Trust ID on their website: <https://www.trustid.co.uk/>
- 1.31 **Partnership working:** The Licensing Authority works in partnership with many other enforcement agencies such as the Police, HM Revenue and Customs, the Home Office, DVSA, Department of Work and Pensions, benefit fraud etc. The council will share information with other departments or regulatory bodies where appropriate. The council is legally required to provide information if requested, pursuant to a criminal offence, or to detect fraud, or immigration offences.
- 1.32 **Neighbouring Authorities:** The Licensing Authority will also work with neighbouring authorities and report to them any relevant matters that relate to their licence holders.

### **Decision making**

- 1.33 The Licensing Authority aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders, including the provision of advice and guidance. The Licensing Authority will be mindful of the needs of the applicant and licence holder, but this will be balanced against the over-riding duty that the Licensing Authority has to protect the safety and welfare of the public.

- 1.34 The Council has delegated its taxi licensing functions to the Council's Licensing and Protection Committee which has, in turn, further delegated authority to the Licensing and Protection Sub-Committees and to Officers of the Council who will determine applications and licensing decisions in accordance with this Policy.
- 1.35 Whilst officers and the relevant committees will in the majority of cases follow the Policy, there may be specific circumstances that require a departure from the Policy. In such circumstances, the reasons for departing from the Policy will be made clear.
- 1.36 The Licensing Authority has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. Where the legislative provisions allow, parties aggrieved by a decision have a right of appeal to Peterborough Magistrates' Court which must be logged within the relevant statutory provisions.

#### **Immigration Act 2016 – implications for all licences**

- 1.37 The Council has a statutory obligation to ensure that applicants have the legal right to work in the UK prior to issuing a licence. The issuing or refusing of licenses will be undertaken in accordance with the requirements of the Immigration Act 2016 with due regard to Home Office guidance.
- 1.38 The Council takes this responsibility seriously and has checks in place to ensure compliance with the Act, and will liaise where required with relevant Home Office departments. If however, a licence has been issued incorrectly for whatever reason, the licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 calendar days.
- 1.39 A licence may be suspended or revoked or refused to be renewed if, since the grant of the licence there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.
- 1.40 Proprietors and operators also have an obligation to ensure that they only utilise persons who have the right to work in the UK. Failure to observe this obligation, or to provide due diligence checks, will be subject to enforcement action by the appropriate Home Office department, which may result in a civil penalty or imprisonment.

#### **Policing and Crime Act 2017**

- 1.41 The Council will give full regard to any guidance issued by the Secretary of State regarding the protection of children, and vulnerable individuals who are 18 or over, from harm.

## **Section 2 - Applications for Licences**

### **Application procedures**

- 2.1 Applicants must fully complete the specified application forms and provide the relevant accompanying paperwork required and fee. Where supporting documentation is required to be submitted, only the original document will be accepted, not photocopies or photographs of the original. Applicants who deliberately fail to declare or who make false statements on the application form or during the application process, may be subject to legal action if it constitutes fraud.
- 2.2 The Licensing Authority shall consider all applications on their own merits once the appropriate criteria have been met, the fee paid and the application form and supporting documents are complete.
- 2.3 The responsibility for applying for a licence rests solely with the applicant. This includes that all documentation, checks and associated criteria is up to date. All application forms, appropriate fees and supporting documentation shall be produced and any necessary appointments attended on a date prior to the expiry date of the licence. The licence fees payable are subject to review and any increase or reduction will be published as required by legislation.
- 2.4 This Authority will only accept complete applications comprising all the necessary information and documentation.

### **Grant**

- 2.5 Only when the Licensing Authority is satisfied that the application is complete and can be determined in accordance with the Council's policy and procedures will a licence be determined.
- 2.6 The maximum period for which a vehicle licence will be granted is one year. The Licensing Authority may exercise discretion and issue a licence of a shorter duration if it considers this to be reasonable given the individual circumstances. Accident replacement vehicles will only be licensed for a temporary period up to three months.
- 2.7 The maximum period for which a dual driver's licence will be granted is the year. The Licensing Authority may exercise discretion and issue a licence of a shorter duration if it considers this to be reasonable given the individual circumstances.
- 2.8 The maximum period for which a Private Hire Operators licence will be granted is five year. The Licensing Authority may exercise discretion and issue a licence of a shorter duration if it considers this to be reasonable given the individual circumstances.
- 2.9 The responsibility for applying to renew a licence and to ensure that a vehicle is licensed rests solely with the licence holder. Application forms, appropriate fees and supporting documentation shall be produced and appointments arranged on a date prior to the expiry of the licence. Licence fees are subject to review and any increase or reduction will be published as required by legislation.

### **Renewals**

- 2.10 The responsibility for applying or renewing a licence rests solely with the applicant/ licence holder. This includes that all documentation, checks and associated criteria is up to date. All application forms, appropriate fees and supporting documentation shall be produced and any necessary appointments attended on a date prior to the expiry date of the licence. The licence fees payable are subject to review and any increase or reduction will be published as required by legislation.

- 2.11 Late or incomplete applications for renewals may render the driver, vehicle or operator as being unlicensed for a period of time during which licensed activities must not be undertaken. In some cases, once a licence has lapsed, it may not be eligible to be renewed, and a new application will be required.
- 2.12 This Authority will only accept complete applications comprising all the necessary information and documentation. Late or incomplete applications may render a driver being unlicensed, during which time they will be unable to work as a licensed driver.



## **Section 3 - Vehicles**

### **General provisions for hackney carriages and private hire vehicles**

#### **Limitation of vehicle numbers**

- 3.1 The legal provision on quantity restrictions for Hackney Carriages is set out in the Transport Act 1985, Section 16. Any limit imposed needs to comply with Part 12 of the Equality Act 2010 and any associated regulations in respect of the proportion of the taxi fleet accessible to disabled persons.
- 3.2 Huntingdonshire District Council has not set a limit for the number of hackney carriage vehicles it will licence. This ensures that Hackney Carriage and Private Hire vehicles are readily available for passengers in Huntingdonshire district. There are no powers for licensing authorities to limit the number of private hire vehicles.

#### **Definitions, Specifications and Conditions**

- 3.3 The main difference between Hackney Carriage and Private Hire vehicles is that a Hackney Carriage can be hailed in a public street or hired from a taxi rank. Private Hire vehicles must be pre-booked in advance through a licensed Private Hire Operator and are not permitted to wait on a rank or be booked directly from a public street. Should a private hire vehicle driver accept a fare which has not been pre-booked through an operator he is committing an offence. Anyone being conveyed in a Private Hire vehicle which has not been pre-booked will not be covered by the drivers insurance.
- 3.4 Local Licensing Authorities have a wide range of discretion over the types of vehicle they licence as Hackney Carriage and Private Hire Vehicles. Government guidance recommends that Licensing Authorities adopt a principle of specifying as many different types of vehicle as possible, leaving it open to the trade to put forward vehicles of their own choice that can be shown to meet criteria.
- 3.5 The Licensing Authority will only licence a Hackney Carriage or Private Hire Vehicle of it complies with European Whole Vehicle (M1) type approval, M1 Low Volume Type Approval or UK National Small Series Type Approval and Individual Vehicle Approval (IVA). These approvals relate to WAV's / converted vehicles and not saloon vehicles.
- 3.6 A vehicle will only be licensed as a Private Hire Vehicle if it is not of an appearance or design that is considered likely to lead the public to think it is a licensed Hackney Carriage Vehicle.
- 3.7 The Licensing Authority is empowered to impose such conditions as it considers reasonably necessary in relation to the grant or renewal of a Hackney Carriage or Private Hire vehicle licence. These vehicles provide a service to the public, so it is appropriate to set criteria for the external and internal conditions of vehicles, provided that they are not unreasonably onerous.
- 3.8 All vehicles presented to the Licensing Authority for licensing and all vehicles whilst licensed must comply with the Authority's current policy and vehicle testing standards specification.
- 3.9 The Licensing Authority reserves the right to carry out or require any form of test, examination or assessment as it sees fit to determine the suitability of a vehicle for licensing or to remain a licensed vehicle.
- 3.10 Licensed vehicles can only be driven by licensed drivers (except when the vehicle is being tested by a garage mechanic).

## **Smoking**

- 3.11 All licensed vehicles must comply with the requirements of the Health Act 2006 and display a no smoking sign in the vehicle in which people can be carried. It is an offence to smoke or permit a person to smoke in a licensed vehicle at any time, even when being used by the driver for social, domestic and pleasure purposes.

## **Signage, Livery and Advertising**

- 3.12 It is essential that the public should be able to identify and understand the difference between a Hackney Carriage and a Private Hire Vehicle.
- 3.13 Both Hackney Carriage and Private Hire vehicles will be required to display licence plates on their vehicle. This is a key feature in helping to identify vehicles that are properly licensed:
- 3.14 Hackney Carriage Vehicles will have signage on the rear passenger doors of the vehicle bearing the Huntingdonshire District Council logo and the words 'Licensed Hackney Carriage'. They also display a blue identification plate on the rear of the vehicle and a blue windscreen notice bearing the licence plate number. They will have a roof sign on the top of the vehicle.
- 3.15 Private Hire Vehicles will have signage on the rear passenger doors of the vehicle bearing the Huntingdonshire District Council logo and the words 'Private hire vehicle – insurance invalid unless pre-booked with operator'. They also display a yellow identification plate on the rear of the vehicle and a yellow windscreen notice bearing the licence plate number. They will not have a roof sign or any signs that include the words 'taxi', 'cab', 'taxicab' or 'for hire'.
- 3.16 Such signage will be permanently affixed (not magnetic) door signage. The external licence plate will be securely fixed to the outside of the vehicle, no temporary fixing is allowed. The signage and plates will be provided by the Licensing Authority for a fee.
- 3.17 Roof signs fitted to Hackney Carriage vehicles shall be illuminated at all times when the vehicle is available for hire. The sign will show the word "TAXI" on the front and the company's telephone number on the rear.
- 3.18 Further details of signs, notices and advertising on vehicles can be found within in the Hackney Carriage and Private Hire Vehicle licence conditions, available on request from the Licensing Team or on the Council website.

## **Age policy**

- 3.19 A section will be inserted here upon the outcome of the consultation on the introduction of an age policy.

## **Insurance**

- 3.20 It is the responsibility of proprietors, operators and drivers to ensure that they are properly insured at all times. Insurance provided by operators to cover their fleet and drivers is usually only valid when drivers are driving for that company. If drivers work for multiple operators, all parties must ensure that appropriate and valid insurance is in place to avoid an inadvertent criminal offence.

- 3.21 Applications for new or renewal of a vehicle licence will require submission of proof of valid insurance which covers the vehicle and driver for hire and reward purposes. The vehicle proprietor and the driver must ensure that valid insurance is maintained at all times. It is considered best practice for proprietors and or drivers to keep copies of expired insurance policies for a reasonable period of time in case of any retrospective claims.

### **Safety equipment**

- 3.22 All licensed vehicles must have a suitable and efficient fire extinguisher and first aid kit containing appropriate first aid dressings and appliances. Such equipment must be in date and carried in such a position in the vehicle as to be readily available and visible for immediate use in an emergency.

### **CCTV in licensed vehicles**

- 3.23 The Licensing Authority recognises the importance of driver and passenger safety and encourages ways to reduce risks such as prepayment of fares, driver screens, radio link schemes and CCTV surveillance systems.
- 3.24 The Licensing Authority does not require enhanced security or CCTV measures to be in vehicles at this time. However the Authority wishes to support the trade in taking sensible measures to protect the drivers and passengers in licensed vehicles and does recognise that there are benefits to the trade and public where CCTV is installed in licensed vehicles. It is therefore left to the judgement of the proprietors, drivers and operators to determine the taking of such measures.
- 3.25 Where drivers, proprietors and operators have considered it appropriate to install CCTV in their vehicles as a safeguarding measure, they must notify the council prior to installation. They must be registered with the ICO and comply with all aspects of data protection and CCTV codes of practice. Further information can be found on the following link.<https://ico.org.uk/>
- 3.26 CCTV must be professionally installed to ensure no interference with other equipment, in such a manner that it does not increase the risk of injury or discomfort to the driver and passengers, or affect any other safety system or in any way breach the motor vehicle construction and use regulations. It must be regularly checked and maintained, be openly overt and the vehicle must display the required signage.
- 3.27 CCTV must not be used to record conversations of the travelling public as it is highly intrusive. Some systems have a driver panic button which if activated does record sound, this should only be used in extreme circumstances, such as in response to a threat of physical violence.
- 3.28 The Licensing Authority reserves the right to amend CCTV specification from time to time as the need arises, having regard to changes in technical standards, case law, national policy or any other circumstances that make it reasonable to amend the current specification.

### **Maintenance of vehicles**

- 3.29 Licensed vehicles have high usage and mileage and it is in the public interest, as well as the drivers, to ensure that vehicles are properly maintained.
- 3.30 The Council expects commitment from drivers and operators to ensure that a planned preventative maintenance programme is undertaken on vehicles.

## **Vehicle testing**

- 3.31 The Licensing Authority must be satisfied that vehicles which are licensed by them are safe to operate within its area.
- 3.32 Prior to licensing any vehicle, it must have passed this enhanced test at the Council's appointed testing station.
- 3.33 Once a vehicle has passed this enhanced test and provided all required documentation, a Certificate of Compliance (CoC) will be issued.
- 3.34 If licence holders wish to obtain an MOT in addition to the CoC test, they may do so by separate agreement with the testing station, but will still be subject to the CoC testing requirements and frequency of testing, at the Council's appointed testing centre.

*Note: This would ensure that vehicles can be listed on the DVLA and Police ANPR system as hold a valid MOT, and therefore reduce the risk of challenge from the Police. However, the Council confirms that a valid Certificate of Compliance is equivalent to a MOT test certificate*

- 3.35 The licensing authority may appoint a currently registered MOT station as an Appointed Testing Station who will conduct the tests on its behalf. The authority reserves the right to limit the number of approved garages. All fees payable for vehicle testing must be paid in advance via the Council's licensing team and a test appointment will then be allocated.
- 3.36 Vehicles must be presented for vehicle testing at the appointed testing station. Proprietors and or drivers must make sure they organise the tests sufficiently in advance to ensure that the vehicle remains compliant with the vehicle testing requirements set out in the conditions.
- 3.37 Hackney Carriage and Private Hire vehicles are granted licences for a maximum period of one year. Prior to being granted a licence, each vehicle shall be examined and tested at the Council's Appointed Testing Station at which compliance with the requirements is assessed and confirmed by the issuing of a certificate of compliance.
- 3.38 It is the proprietor's responsibility to ensure that all testing and application procedures are completed in order for the vehicle to become licensed.
- 3.39 Licensed vehicles that fail an authorised examination and test and are deemed non-compliant by the examiner will result in the vehicle proprietor being invited to re-test the vehicle. If an existing licensed vehicle fails, then it must not work until a compliance test has been passed. Re-tests will only be undertaken within 7 calendar days and 1000 miles of the original test.

## **Accidents/Accident replacement vehicles**

- 3.40 Proprietors of licensed vehicles are required to inform the Authority as soon as possible and at least within 7 calendar days, of any accident causing damage which materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of passengers carried. Proprietors must also present the vehicle to the Licensing Team for inspection, if requested.
- 3.41 The driver involved in the accident must complete an accident report form and submit it to the licensing team, giving details of how, where and when the accident occurred.

- 3.42 As the Licensing Authority may be contacted by insurance companies to verify an accident damage report and the details provided, an accident report form is required before the authority can deal with any arrangement between the vehicle proprietor and the accident insurance company.
- 3.43 Vehicles which have sustained damage may apply for a temporary replacement vehicle whilst the vehicle is being repaired. The replacement vehicle will carry the same licence number as the damaged vehicle, so the licence plate for the damaged vehicle must be given back in order for the temporary plate to be released. Replacement vehicles must first be passed as fit for service by the Council's appointed testing station and must meet all the other requirements and standards applicable. There is a separate application form and fee payable for this service and the reinstatement of the plate. Upon completion of repair work, the plate on the temporary vehicle must be returned to enable the vehicle licence number to be re- issued to the original repaired vehicle. Depending upon the nature of the damage, the Licensing Authority retains the right to have the repaired vehicle inspected at the testing station or examined by a Licensing Officer at officer's discretion.
- 3.44 Insurance replacement vehicle licences will only be granted for a maximum of three months, but applications for renewal of temporary replacement is available.

### **Vehicle inspections**

- 3.45 Licensed vehicles shall, at all times, be kept on an efficient, safe, tidy and clean condition. Compliance with the vehicle specifications and conditions of licence are essential and will be enforced by periodic and/ random vehicle inspections by authorised officers of the Council.

### **Taximeters and fares**

- 3.46 All hackney carriages licensed by this Authority are required to have a working taximeter fitted in the vehicle. The meter will be calendar controlled to the current tariff as set by the Licensing Authority.
- 3.47 The taximeter and the operating devices must be sealed by the installer and certificated to confirm that the equipment is compliant. The certificate issued must be available for inspection and the vehicle seals must be intact at any time that the vehicle carries a licence plate, except when at an approved installers premises.
- 3.48 Meters are required to meet the Public Carriage Office Specification.
- 3.49 A table of authorised fares will be provided to each Hackney Carriage Vehicle licence holder, which must be displayed in each vehicle so that it is easily visible to all hirers.
- 3.50 Within district, if a vehicle is fitted with a taximeter it must be used when conveying passengers, the fare demanded cannot be more than that shown on the taximeter. If a fare has been quoted and agreed and is less than the fare shown on the taximeter, the quoted lesser fare must be charged. The charges levied by hackney carriage vehicles operating outside of Huntingdonshire District Council area, do not have to be subject to the licensing authority's control and form a private contract between the hirer and the operator.
- 3.51 The Licensing Authority is unable to set fares for private hire vehicles.

### **Transfer of ownership of the vehicle**

- 3.52 If a proprietor wishes to transfer ownership of a licensed vehicle, they must complete the required application, providing full details of the new owner of the vehicle as soon as practically possible, and in any case within 7 calendar days. A proprietor who fails to give such notice, without reasonable excuse, is guilty of an offence.

### **Accessibility and Equality**

- 3.53 All drivers will be required to be trained in accessibility and equality as a part of the application process. A provider will be determined and further details will be added to this section.
- 3.54 The Licensing Authority takes all complaints of discrimination seriously and will have due regard to its duty to eliminate discrimination, along with the provisions of the Equality Act 2010, when considering the fitness of an individual to hold a Hackney Carriage or Private Hire licence, be it driver, vehicle or operator.
- 3.55 All new hackney carriages above plate 44 must be wheelchair accessible vehicles (WAV's) and are designated as such. The Licensing Authority will apply any specification for such vehicles as may be provided by regulations under the Equality Act 2010. There is not the same requirement for private hire vehicles to be wheelchair accessible. Existing hackney carriage plates 1-44 also retain protected grandfather rights to use saloon style vehicles.
- 3.56 As Hackney Carriages pick up passengers from ranks and the roadside, all new licensed Hackney Carriages must be side loading. The Licensing Authority will not licence rear loading WAV's.
- 3.57 All licensed drivers must not impose extra charges for conveying persons with disabilities.
- 3.58 The Equality Act 2010 places certain duties on licensed drivers to provide assistance to people in wheelchairs and to carry them safely. There are similar requirements on drivers in relation to the passengers with an assistance dog. Drivers or operators cannot charge extra or refuse to carry such passengers unless they have applied for and been issued an exemption certificate. Further information on exemption certificates can be found in sections 3.77 - 3.84.
- 3.59 Drivers should be appropriately trained in the use of relevant belts and other restraint locking mechanisms to ensure the safety of their passengers in the vehicle. It is the driver's responsibility to ensure that they understand fully how to use the equipment.

### **Exemptions, weddings and funeral vehicles**

- 3.60 The DfT have issued guidance regarding the types of activities that may require licensing. In general, the following will not be considered to require licensing:
- Child minder vehicles
  - Care transport workers
  - Volunteers
  - Ambulances
  - Courtesy Cars
- 3.61 Each case will be considered on its individual merits and the nature of operation taken into account when considering if a licence is required.
- 3.62 Vehicles owned by funeral directors that are used wholly or mainly for the purposes of funerals are exempt from the requirement to be licensed.

- 3.63 Vehicles used wholly or mainly for the traditional purposes of wedding ceremonies are exempt from the requirement to be licensed.
- 3.64 The open display of identifying licence plates is intended by the licensing legislation in protecting the public and supporting trade by identifying it as a regulated business. There are, however, occasions when the display of such identification is inappropriate on a private hire vehicle and exemptions may be granted where there is sufficient reason. Further details are given in paragraphs 2.67 to 2.74.

### **Stretched Limousines**

- 3.65 Stretched Limousines are elongated saloon cars, generally used for private hire work and special occasions.
- 3.66 Limousine vehicles used for the purpose of hire and reward are required to be licensed as private hire vehicles and all bookings must be made via a licensed operator.
- 3.67 These are specialist types of vehicles with their own set of conditions, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these specialist conditions, then the specialist conditions shall prevail. The conditions can be found at Appendix E.
- 3.68 The Council strongly recommends that anyone wishing to purchase and licence a limousine, contacts the licensing team prior to purchase, to ensure that the vehicle will meet the conditions. Applications will be treated on their individual merits.

### **Private hire exemption to display licence plate etc**

- 3.69 The displaying of the external identification plate on a licensed vehicle and a drivers badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to assist with public safety issues.
- 3.70 However there are occasions when the requirement to display an external identification plate may have the opposite effect in the terms of customer safety and could have commercial implications for the operating business. The display of local authority licence plates may also deter some corporate customers from using the service; and in some cases the identification of the vehicle as licensed may allow "high risk" passengers to more readily be targeted putting both them and the driver at risk.
- 3.71 The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles display an identification plate (licence plate) and drivers of those vehicles wear a driver's badge. The same legislation also allows Huntingdonshire District Council to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a private hire driver's badge. The ability to exempt a vehicle from displaying the licence plate only applies to private hire vehicles, and any authorisation from the Licensing Authority is vehicle specific.
- 3.72 It is not intended that a significant number of private hire vehicles licensed by the Council will be exempt from the council's requirement to display an external vehicle identification plate, however the Council recognises that there may be circumstances when it would be appropriate for vehicles operating the type of service to be considered suitable for such an exemption.
- 3.73 In creating its policy Huntingdonshire District Council does not seek to provide a definite list of vehicles it considers to be suitable (subject to use) for exemption from the requirement to display external vehicle identification plates.

- 3.74 Applications for the exemption from the requirement to display an external identification plate on the rear of a private hire vehicle may be considered where the following requirements are met;
- 3.75 Vehicle models must be either four door saloons, or five door estates or five door hatchbacks. Applications will not normally be accepted in respect of people carrier type vehicles.
- a) Vehicles must be of a standard of comfort and equipped to a level equal to or above luxury brands of vehicles such as “S” and “E” Class Mercedes- Benz, 7 Series BMW, Lexus “GS” or “LS” models, Audi A8 Series, Jaguar, Rolls Royce and Bentley saloons. (The highest specification executive type cars from other manufacturers may also be considered).
  - b) The vehicle will be in pristine condition with no visible defects, dents or blemishes to the external bodywork or internal trim and seating.
  - c) The type of work is “executive” in nature. This means that the vehicle is used specifically and exclusively to provide transport under a written contract to a company or person, or by the type of clients who for security or personal safety reasons would not want the vehicle to be identifiable.
- 3.76 Prestige high specification private hire vehicles which carry out contract work such as executive bookings etc may apply for an exemption certificate, which exempts that vehicle from the requirement to display the licence plate and/ or door signage. It also exempts the licensed driver from wearing his badge, however the driver must carry his badge with him so that it is immediately available. The vehicle will still be issued with a licence plate which must be affixed within the boot of the vehicle. Insurance which covers the driver and vehicle for hire and reward purposes must still be maintained.
- 3.77 Vehicles which have been issued with an exemption certificate must not be used for general daily private hire work. Exempted vehicles found to be carrying out standard private hire work will be subject to enforcement action and the exemption certificate may be revoked.
- 3.78 Exempted vehicles must not display any advertisements, signage, logos, or insignias advertising the operating company inside or outside the vehicle.
- 3.79 Operators and proprietors who wish to apply for an exemption certificate must complete the application form, pay the required fee and provide sufficient supporting documentation to establish the vehicle will be solely used for executive bookings. An exemption certificate will be vehicle specific.
- 3.80 There are extra conditions applicable to exempted vehicles, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these extra conditions, then these extra conditions shall prevail.
- 3.81 If an exemption certificate has been issued and the vehicle will no longer be utilised solely for executive type bookings, the certificate must be surrendered and returned to the council. If the vehicle is still licensed, it must then display the plate and door stickers as required by the conditions for private hire vehicles.



## **Section 4 - Hackney Carriage and Private Hire Drivers**

### **General**

- 4.1. This Authority has a dual licence for both Hackney Carriage and Private Hire Drivers. The sections below therefore apply equally to Hackney Carriage and Private Hire Drivers unless indicated.
- 4.2 Licensed drivers provide a public service. This Authority will not licence anyone to drive a Hackney Carriage or Private Hire vehicle unless it is satisfied that they are a fit and proper person and are not disqualified by reason of their immigration status.
- 4.3 This Authority generally grants Drivers licences for duration of three years, although it may exercise discretion and issue a licence for a shorter duration if it considers this to be reasonable given the individual circumstances.
- 4.4 Drivers licences may also be renewed, however, if a licensed driver fails to renew within a period of 7 calendar days from the date of expiry of the licence, they will be required to apply as a new driver and meet all the requirements.

### **Fit and proper**

- 4.5 There is no definition of 'fit and proper' in legislation or a fixed legislative process. It is for the Council to determine how it wishes to be satisfied that a driver is fit and proper and to this end, this Authority considers a range of documentary evidence, practical criteria and testing mechanisms provided by an applicant in order to be satisfied of this. Fit and proper could for example be interpreted as being safe and suitable.
- 4.6 Behaviour of a rude or abusive manner at any stage of the application process will question an applicant's 'fit and proper' status and may result in their application being terminated.

### **Suitability of driver**

- 4.7.1 Licensed drivers will come into contact with vulnerable people, drivers are expected to assist passengers with luggage, shopping etc, they will be driving for prolonged periods of time, and will have access to sensitive information, therefore the council must fully assess an applicant's suitability prior to and after issuing a licence.
- 4.8 Consideration of suitability includes character and patterns of behaviour are not limited to incidents which occur whilst the driver is 'on duty'. Conduct or behaviour which may indicate that the safety and welfare of the public may be at risk will also be taken into account when assessing their fit and proper status. The onus is on the applicant or licensed driver to satisfy the council that they are and remain 'fit and proper'.
- 4.9 The Council requires applicants to fulfil certain criteria to ensure that the public are protected and that drivers are able to provide the service which is expected of them.

### **Vehicle driver licences**

- 4.10 Applicants shall be over 18 years of age and shall have held a full driving licence issued in the UK, The European Community (EC) or one of the other countries in the European Economic Area (EEA) for at least 12 months.
- 4.11 This Authority will use the services of an appropriate party to access DVLA records in addition to checking the full licences produced by the applicant.

4.12 This Authority requires drivers to notify the council of any significant changes which occur after their licence has been granted. This includes change of name or address, email address or telephone number, change of immigration status, changes in physical or mental health which may affect driving ability, all convictions or cautions, DVLA penalty points, or any other matter which may question a driver's fit and proper status.

4.13 All licensed drivers are required to wear their drivers badge whilst working as a licensed driver. Failure to comply is an offence under the 1976 Act and local byelaws. The driver's badge remains the property of the Council and all expired, surrendered or revoked badges must be returned.

#### **Eligibility to live and work in the UK**

4.14 This Authority has a responsibility to ensure that it only issues licences to individuals who have a legal entitlement to live and work in the UK.

4.15 Proof of the right to live and work in the UK must be provided by Driver and Operator applicants in accordance with the Immigration, Asylum and Nationality Act 2006. As a part of the application process, individuals are required to present original documentation for verification and copies will be made and retained on file. The Home Office has produced a list of documents that can be used.

4.16 If an individual is not a UK or EEA national then they will need to obtain permission to live and work in the UK.

4.17 Individuals may have a permanent or temporary right to live and work in the UK. Licences will not be issued for a period any longer than the permission given to live and work in the UK.

4.18 This Authority will work in conjunction with the Home Office to ensure immigration offences are minimised. This Authority may exercise discretion to grant or renew a licence, or to suspend or revoke an existing licence if an individual is found to be living or working in the UK without the relevant authorisation.

#### **Disclosure and Barring Service (DBS), Convictions, cautions and other related matters**

4.19 Under the Town and Police Clauses Act 1847, or under Section 57 of the Local Government (Miscellaneous Provisions) Act 1976, a council may require an applicant for a licence to submit any information that they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

4.20 A DBS certificate is seen as an important safety measure by this Authority to ascertain whether or not a driver applicant is fit and proper to hold a licence.

4.21 An enhanced DBS will be required upon application and every three years thereafter if subsequent renewal applications are made. The DBS check must be dated no more than three months prior to the application/renewal date. This check will detail any criminal convictions and cautions, including those that are spent and other relevant information which will be taken into account.

4.22 This Authority encourages drivers, proprietors, operators and applicants to join the DBS Update Service.

- 4.23 The Rehabilitation of Offenders Act 1974 sets out the period after which a conviction would be regarded as 'spent' and would not normally require disclosure of that conviction. However in 2002 the Act was amended to add Hackney Carriage and Private Hire drivers to the list of 'excepted occupations'. This means that applicants must disclose all previous convictions for any offences, rather than those which are not 'spent' under the terms of the 1974 Act to which questions may be asked as to the suitability of individuals to be granted a licence.
- 4.24 The existence of a criminal conviction or caution does not necessarily preclude an applicant from obtaining a driver's licence. Conversely, the absence of any convictions or cautions does not mean that an applicant will be licensed. Each application will be determined on its own merits.
- 4.25 Existing licence holders must disclose all new convictions, including driving convictions, police warnings and reprimands, cautions, community service orders, restraining orders, fixed penalties and any other matters to the licensing authority, in writing within 7 calendar days.
- 4.26 Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensed driver even before conviction if there is a 'pressing social need'. This ensures that where there is a public protection risk, the police will pass information onto a regulator body to allow swift actions to mitigate any serious safeguarding risk.
- 4.27 If it comes to the attention of the Council that a licensed driver has failed to notify the council of relevant matters which occur during or after the licence has been issued, it will be taken particularly seriously. It shows a propensity towards dishonesty and questions the fit and proper status of the licence holder.

#### **Certificates of Good Conduct**

- 4.28 Applicants who have worked or have been resident overseas in the 5 years preceding the date of application must obtain a certificate of good conduct from the relevant embassy or consulate covering that period.
- 4.29 The certificate of good conduct must be authenticated, translated and sealed by the relevant embassy or consulate.
- 4.30 Any costs associated with obtaining a certificate of good conduct are the responsibility of the applicant or driver.

#### **DVLA**

- 4.31 As driving is the predominant aspect of a licensed driver, the council needs to ensure that applicants hold a valid driving licence and to ascertain whether the licence holder has been issued with any penalty points.
- 4.32 This Authority will carry out a check of DVLA records to ensure that the information submitted by the applicant is in accordance with the information held by the DVLA.
- 4.33 Applicants are therefore required to complete a DVLA mandate form on application and at three yearly intervals thereafter to permit the council to access their driving record. The mandate and DVLA result will be retained and recorded.
- 4.34 Consideration of penalty points and driving offences will be made in accordance with the guidelines relating to the relevance and treatment of convictions available on request from the Licensing Team or on the Council website.

## **Medical Requirements**

- 4.35 It is recognised that it is good practice for medical checks to be made as it is essential that licensed drivers are in good health. They have more stringent medical standards than those applicable to normal car drivers. This is because they carry members of the general public who have expectations of a safe journey, they may have to assist disabled passengers and handle luggage and are on the road for longer periods than most car drivers. The council must be satisfied that licensed drivers are sufficiently fit to undertake the tasks expected of them.
- 4.36 This Authority acknowledges the importance of a driver's good physical and mental health in protecting the public and requires that all new and renewal drivers meet the DVLA Group 2 medical standards.
- 4.37 The DVLA group 2 medical is a recognised national standard developed by DVLA for bus and lorry drivers. The DVLA, The Royal Society of Medicine and the DfT recommend and consider it best practice for licensed drivers (hackney carriage and private hire) to be subject to the DVLA group 2 medical requirements.
- 4.38 Medicals are required for all new applicants and also on reaching the following birthdays: 55, 60, 65 then annually on each birthday thereafter. For new applicants this must be not more than four months before the date of application. Applicants must pay any fees to the registered medical practitioner for completing the medical and report.
- 4.39 The medical examination must be undertaken by a registered general practitioner having examined the applicant's medical history and submit the doctor's group 2 medical report with their application, to enable the council to consider their fitness to hold a licence.
- 4.40 The group 2 medical assessment must be completed by a doctor registered and licensed to practice in the UK or registered within the EU. If the applicant's own doctor completes the medical assessment it may speed up the application, as they already have full access to their medical records.
- 4.41 If, once licensed, a driver's medical circumstances change during the period of the licence, the driver must notify the Licensing Authority within 7 calendar days. If there is any doubt as to the medical fitness of an individual, this Authority may require the individual to undergo a further group 2 medical examination by their GP or an approved practitioner. Each case will be assessed on its individual merits. This includes any deterioration in physical or mental health which may affect a driver's ability to drive or complete tasks required of a licensed driver.

## **Local Knowledge**

- 4.42 Hackney Carriage and Private Hire drivers need a good working knowledge of the area for which they are licensed, because vehicles can be hired immediately, directly with the driver at hackney carriage stands or on the street for Hackney Carriages and by prior booking through a Private Hire Operator in the case of Private Hire Vehicles.
- 4.43 It is also required that drivers should be able to communicate with their customers and be able to carry out the basic arithmetic associated with the paying of fares. They must be able to write receipts. They must have read and fully understood council's licensing conditions,

## **Driving Proficiency**

- 4.44 This Authority needs to be satisfied that a driver's driving ability is competent and of a sufficiently high standard to safely and comfortably convey members of the public. In addition to the mandatory DVLA driving licence, it is therefore a requirement that a further appropriate formal driving qualification be undertaken and obtained for all new applicants and for cases where there are serious concerns as to the fitness of an existing driver to hold a licence due to driving problems.
- 4.45 For these purposes, the standard of driving competence is the Blue Lamp Trust assessment for Private Hire and Hackney Carriage drivers. The test will be valid for a period of one year from the pass date.

## **Council Byelaws**

- 4.46 Hackney Carriage Drivers are subject to the Council's Byelaws.

## **Code of Conduct**

- 4.47 This Authority considers that the Hackney Carriage and Private Hire trade is a key front line transport service for residents and visitors to our district and has set down the standards which must be adopted in maintaining a safe, professional and efficient approach to transport members of the public. The standards of behaviour are set out in the licence conditions and should be read in conjunction with the other statutory and policy requirements set out in this document
- 4.48 This Authority and the travelling public expect licensed drivers to provide good customer service and behave in a civil and courteous manner. They are expected to be clean and smart in their appearance. The vehicle must also be clean, presentable and roadworthy. They are expected to provide reasonable assistance with luggage or shopping and provide a written receipt if requested with no extra charge. Arrive at the appointed time and not prolong any journey. As professional occupational drivers, they are expected to drive with consideration to other road users and weather conditions.
- 4.49 Drivers must be aware of and comply with the conditions applied by this council and other appropriate legislation. Drivers who fail to observe these requirements may be subject to enforcement action.
- 4.50 Drivers must not operate any equipment which may distract them whilst driving. Drivers must not cause annoyance to passengers during the journey by playing music or constantly talking on a hands free mobile phone.
- 4.51 Drivers must be aware of their obligations under the Equality Act to provide a service and assistance to passengers with mobility problems, disabilities and to take assistance dogs, without extra charge.
- 4.52 This council condemns discriminatory behaviour which is harassing, racist, religiously motivated, homophobic, sexist, or in any way offensive to disability or gender. Complaints of this nature are taken particularly seriously. The council does not however have any power over passengers who use licensed vehicles. Drivers who experience any of the above behaviour should report it to the police.
- 4.53 Licensed drivers must ensure that they fully consider the safety of the passenger, other road users, parking restrictions, street furniture and other hazards when stopping to allow a passenger to alight the vehicle.

- 4.54 Driving for long periods of time, when sleepy or fatigued impairs driving ability, reduces reaction time, vigilance, alertness, concentration, is dangerous and increases the risk of accidents. Licensed drivers have a duty to make a conscious decision to take regular rest periods, to ensure their own safety and the safety of the travelling and general public. Licensed drivers must not drive if they are taking medication which impairs their judgement or driving ability.

### **Complaints against drivers**

- 4.55 In the interests of public safety, this Authority has a duty to ensure that licensed drivers remain fit and proper and will intervene where appropriate. Complaints made to the council are recorded and monitored.
- 4.56 Where serious complaints which question a driver's fit and proper status are received, they are investigated and appropriate action is taken. Similarly, the accumulation of several complaints of a less serious nature about the same driver could highlight that there is cause for concern. Each case will be considered on its individual merits. Where this occurs it may be necessary to contact the driver concerned and/ or proprietor or operator. The driver may be asked to attend the council offices to determine an appropriate course of action. This could be that no action is required, or that appropriate enforcement action needs to be undertaken.

### **Equalities Act Exemption certificates**

- 4.57 This Authority has implemented Sections 165 and 167 of the Equalities Act 2010, which sets out the duties placed on drivers of designated WAV's, which are:
- To carry the passenger while in the wheelchair;
  - Not to make an additional charge for doing so;
  - If the passenger chooses, to sit in a passenger seat to carry the wheelchair;
  - To take such steps as are necessary to ensure the passenger is carried in safety and reasonable comfort; and
  - To give the passenger such mobility assistance as is reasonably required.

The Equalities Act also lays out requirements for the conveyance of assistance dogs.

- 4.58 Drivers may apply in writing for an exemption certificate if a medical condition or disability or physical condition makes it unreasonably difficult for them to provide the sort of physical assistance these duties require, or provide physical assistance to passengers in wheelchairs or if they are unable to convey assistance dogs.
- 4.59 The council will only consider exemption applications which are accompanied with a medical report signed by a specifically trained professional that is independent of the applicant i.e. a registered medical practitioner or independent Occupational Health practitioner. The period of the exemption certificate will be individually determined based on the medical practitioner's recommendation. The council may request applicants to be assessed by the council's professional qualified medical assessor, particularly where the period of exemption is likely to be long term.
- 4.60 Where an exemption application has been considered and approved by the Council, the driver will be issued with an exemption certificate and an exemption notice. The exemption notice must be displayed in the vehicle on the nearside of and immediately behind the windscreen of the vehicle, in a manner that readily permits its removal, so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle, when driving. The exemption notice must be removed prior to another licensed driver driving the vehicle. Failure to display the notice could leave the driver open to prosecution, if they do not then comply with the requirements of the Equality Act. Only one exemption notice should be displayed in a vehicle at any one time.

- 4.61 If an exemption application is refused, the applicant will be informed in writing providing reasons for the decision to refuse. Applicants who have been refused an exemption can appeal to the Magistrates Court within 21 calendar days.
- 4.62 Drivers who have been issued with an exemption certificate must inform proprietors or operators that they have the exemption, to avoid any unnecessary distress or delay to passengers.
- 4.63 Licensed drivers of designated WAV vehicles who fail to comply with the duties under the Act will be subject to enforcement action. Drivers convicted of failure to comply with this section are unlikely to be considered a 'fit and proper' person.

#### **Idling offence - environmental impact**

- 4.64 Drivers are reminded that stationary idling is an offence under section 42 of the Road Traffic Act 1988.

#### **Plying for Hire – Private Hire Vehicles**

- 4.65 If a private hire driver is parked and is approached directly by a member of the public, the driver commits an offence if the driver takes an active part in the 'booking' process, eg by contacting the operator directly by radio or mobile phone to make that booking for his own vehicle there and then.

#### **Hackney Carriage drivers**

- 4.66 Hackney Carriage drivers waiting on taxi ranks, generally operate a first in the queue system. When a customer approaches, the taxi at the front of the rank will expect to take that passenger. Whilst this etiquette generally works without incident, drivers are advised that the customer may, for whatever reason, choose not to take the first taxi at the rank.
- 4.67 The customer has the choice in this situation, drivers who, whilst waiting on a rank, refuse or neglect to accept a fare without reasonable cause are committing an offence.
- 4.68 A driver must not leave a Hackney Carriage vehicle unattended on a rank.

## Section 5 - Operators

### General

- 5.1 Any person who operates a Private Hire service (who is not a Hackney Carriage Proprietor who permits Hackney Carriages to be used for Private Hire) must apply to the Licensing Authority for a Private Hire Operator's Licence. The legislation requires any person, who in the course of business makes provision for the invitation or acceptance of bookings for a private hire vehicle, must be licensed as a private hire operator. The aim is to promote the safety of the public using the operator's premises, vehicles and drivers arranged through them.
- 5.2 A Private Hire vehicle may only be dispatched to a customer by a Private Hire Operator who holds an operators' licence. The licence permits the operator to make provision for the invitation or acceptance of bookings for a Private Hire vehicle. The acceptance of bookings may be provided for by a variety of methods, such as, in person, by telephone, text, email, internet, smart phone app, in writing, or by any other communication means.
- 5.3 The legislation requires the authority to only licence operators who are considered to be fit and proper to hold an operator's licence and who are not disqualified by reason of their immigration status.
- 5.4 A Private Hire operator shall ensure that every Private Hire vehicle is driven by a person who holds a Private Hire driver's licence.
- 5.5 All work undertaken by private hire vehicles (and drivers), must be pre-booked via a licensed operator. All three licences (private hire vehicle, private hire driver and operator) must be issued by the same Licensing Authority.
- 5.6 Operators can only utilise drivers and vehicles that are correctly licensed. Operators, who fail to ensure that the drivers and vehicles they utilise have valid licences, are guilty of an offence and will be subject to enforcement action.
- 5.7 An operator's licence is usually granted for five year duration, but may be granted for a lesser duration if requested to do so in writing or if the applicant's immigration status limits it to a shorter duration.
- 5.8 There is no provision within the legislation to transfer an operator's licence. New applicants must be subject to the fit and proper test and new premises must also be assessed for suitability.
- 5.9 An operator's licence cannot be issued to persons who do not have the right to work in the UK. A licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of their immigration status. Where this applies, the person must immediately cease to operate and return their operator's licence to the council within 7 calendar days.
- 5.10 Licensed operators may accept bookings and may subcontract these bookings, but only to another licensed operator. However, the operator who accepted the initial booking remains responsible for that booking.
- 5.11 Operators are required by law to keep a record of bookings and records relating to each and every vehicle operated by the operator. Records of bookings must be made before the commencement of the journey. All such records must be made available to an authorised officer for inspection.



- 5.12 The Licensing Authority has power to impose such conditions on an operator's licence, as it considers reasonably necessary. Huntingdonshire District Council's Schedule of Conditions for Operators available on request from the Licensing Team or on the Council website.

### **Suitability of applicant**

- 5.13 Operators are generally the owners of the private hire business. They have access to private information, are responsible for ensuring they only utilise properly licensed, insured and safe vehicles and drivers.
- 5.14 The council requires applicants to complete the application and submit it with the appropriate fee, and supporting documentation, which will be used to decide whether the applicant is a fit and proper person to hold an operator's licence.
- 5.15 As Operators have access to personal information and to promote public safety, before an application for a Private Hire Operators licence will be considered, Operators that are existing drivers will undertake enhanced DBS checks in accordance with the requirements of their Hackney Carriage and Private Hire Driver's licence.
- 5.16 This Licensing Authority requires all new Private Hire Operators to submit an enhanced DBS disclosure, less than 3 months old, if they are not already a licensed driver. The Council will require a further enhanced DVS disclosure on renewal of a Private Hire Operators Licence, dated within three months from the date of application.
- 5.17 The council will not grant a licence to an operator whose premises are located outside our area. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade. Existing operators already holding an Operator's licence beyond the boundary of the district will be permitted to continue under grandfather rights.

### **Suitability of premises**

- 5.18 When considering an application for an operator's licence at a new premises, consideration will be given to the location, the vicinity, facilities, parking arrangements, planning permission etc to ensure that the grant of a licence will not negatively impact on the surrounding area, including businesses, residents and the general public.
- 5.19 Operators intending to operate from new premises will be required to satisfy themselves that they have obtained any relevant planning permission, or confirmed that planning permission is not required. Where planning permission is required, operators must comply with any condition attached to such permission. Whilst any breach of planning legislation will be enforced by the planning department, it may also be used in consideration of an operator's fit and proper status. The grant of an Operator's licence will not imply that planning consent has been given.
- 5.20 Where the operator has premises open to the public, the operator shall ensure that they have taken out Public Liability insurance.

### **Operators' responsibilities and obligations**

- 5.21 The responsibility for applying to renew an Operator's licence, and to ensure that all documentation, checks and associated criteria is up to date, rests solely with the licence holder. The licence fees payable are subject to review and any increase or reduction will be published as required by legislation. The fee payable is dependent upon the number of vehicles operated.

- 5.22 This Licensing Authority will only accept complete applications comprising all the necessary information and documentation. Late or incomplete applications may render an operator being unlicensed for a period of time during which they will be unable to work as a licensed operator.

### **Record keeping**

- 5.23 The Local Government (Miscellaneous Provisions) Act 1976, S 56 (2) requires Operators to keep records of each booking. Information should include the date and time of the booking, the name of the hirer, how the booking was made, the date, time and point of pick-up, the destination, the name and badge number of the driver and the licence number of the vehicle allocated and any other remarks e.g. reference to contract or sub-contract work. Records can be kept in a suitable book or on a computer or any other recordable device. If using a book the pages must be numbered consecutively. Records should be retained for a period of not less than six months.
- 5.24 If an operator subcontracts a booking to another licensed operator, both operators must keep a record of the booking. The operator who accepted the initial booking remains fully responsible for that journey even though it has been subcontracted to another licensed operator. The initial operator must record the checks they made to ensure that the operator they passed the booking onto is correctly licensed.
- 5.25 Regardless of which operator fulfils the booking, the operator can only dispatch a vehicle licensed by the same authority that licenses the operator and driven by a driver also licensed by that same authority.
- 5.26 It is not expected that subcontracting of bookings would be commonplace. Customers who book through a Huntingdonshire operator would expect a vehicle and driver also licensed by this authority. The conditions and standards applied by other licensing authorities are different to those applied by this authority.
- 5.27 It is expected that customers booking a private hire vehicle through an operator, receive service from a private hire vehicle or Hackney Carriage vehicle. Specifically, a vehicle and driver that have been through fit and proper checks, vehicle inspections, and are licensed by the Licensing Authority. If the operator chooses to provide service with another vehicle that is not licenced under as a private hire vehicle or Hackney Carriage, the customer shall be made aware of this and the implications of this, and the details shall be recorded in the operator records.
- 5.28 The customer has the choice of which operator they book through. This means that the customer may choose an operator licensed by a neighbouring authority, known as cross border hiring. The legislation permits these bookings and the council cannot get involved in these private hire contracts. Operators should aspire to ensure that their drivers and vehicles provide the highest standard of service, so that they are the operator of choice.
- 5.29 Operators need to be aware of their obligations when it comes to data protection. Where databases containing personal information, such as records of bookings are maintained electronically or if they have CCTV, they are required to be registered with the Information Commissioner's Office (ICO). Further information including a self-assessment, can be found on the following links;  
<https://ico.org.uk/for-organisations/register/>  
<https://ico.org.uk/for-organisations/register/self-assessment/>  
<https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/>

- 5.30 The Operator must hold records of insurance and licence expiry dated of drivers and vehicles. No journeys can be allocated to uninsured or unlicensed drivers and vehicles. Those who provide a waiting area for customers must ensure that they have valid public liability insurance.
- 5.31 The Operator shall permit an Authorised Officer of the Council access to records required by their licence at all reasonable times.
- 5.32 Operators must make customers fully aware of any additional charges which may be applied, e.g. for waiting time and for cleaning a soiled vehicle. These additional charges must be clearly displayed in the operator's office and website where available.

#### **Address from which an operator may operate**

- 5.33 When the Licensing Authority grants an Operator's licence, it will specify the address from which the operator may operate. This will be the premises where the records referred to above are kept and at which the Licensing Authority may inspect them.
- 5.34 The Operator must notify the Licensing Authority in writing of any change of address during the period of the licence, within 7 calendar days.

#### **Cleanliness**

- 5.35 Operators are responsible for ensuring that the vehicles utilised are clean, fit for the purpose of the booking and comply with the conditions applied by this council. It is expected that operators have a planned maintenance programme in place for all vehicles it utilises. The testing requirements applied by this council are to confirm a level of safety and quality, rather than to highlight what maintenance needs to be carried out.

#### **Sub-Contracting**

- 5.36 Section 55a of the Local Government (Miscellaneous Provisions) Act 1976, inserted by the Deregulation Act 2015, permits Operators licences by the council to sub-contract a private hire booking to another operator licensed by the Council or to any other licensed private hire operator holding a private hire licence granted by another licensing authority.
- 5.37 Regardless of which operator fulfils a booking, the operator can only dispatch a vehicle licensed by the same Council that licenses the operator and driven by a driver licensed by that same Council.
- 5.38 Operators that accept a booking remain legally responsible for that booking even if they sub-contract the booking to another Operator and should record the booking as usual and note the fact that it was sub-contracted.

#### **Cross-border hiring**

- 5.39 In relation to Private Hire vehicles, the Local Government (Miscellaneous Provisions) Act 1976 permits members of the public to contact and book a private hire vehicle through any licensed Private Hire Operator regardless of the district they are licensed. Private Hire bookings are private contracts between the hirer and the operator and are not a matter for the Licensing Authority to regulate. In this regard, the Act leaves the selection of an Operator entirely to market forces and the freedom of choice to the customer.
- 5.40 The council encourages all private hire operators to include wheelchair accessible vehicles amongst their fleet. They must ensure that no additional costs or charges are levied by them or their drivers for conveying disabled passengers or assistance dogs.

## **Other obligations**

- 5.41 Operators must ensure that the drivers they utilise are fit and proper to carry out the bookings and are appropriately trained for their role. Operators should be able to demonstrate how they will achieve this by way of a policy to include any training (or checks) provided by the operator, customer service company policies and practices, including disability awareness.
- 5.42 Operators must be aware of their obligations under the Immigration Act and only utilise persons who have the right to work in the UK. Failure to observe this requirement or to provide due diligence checks may be subject to enforcement action by the relevant Home Office department.

## **Complaint policy**

- 5.43 As responsible business owners, operators will understand that the drivers and vehicles they utilise represent their business when undertaking bookings. Operators will want to ensure good customer service, as this builds a respected reputation, resulting with repeat bookings and a successful business. Where vehicles or drivers fail to provide a good service, the operators business can suffer.
- 5.44 Whilst a vast majority of bookings take place without problem, there are occasions where a customer has cause for concern or complaint. Aggrieved customers have a right to complain if the service provided fails to meet expectations. It is also right for responsible operators to attempt to find an amicable resolution to the complaint, without any unnecessary regulatory burden or intervention.
- 5.45 Complainants must be dealt with in a respectful timely manner in an open and transparent way. To ensure this is achieved, operators are required to have a formal complaints policy and procedure which is made freely available to all customers, and maintain records of complaints received.
- 5.46 A copy of the complaints policy and procedure must be given to the council and will be required with all new and renewal applications.
- 5.47 The complaint records must detail specific information, be monitored, and be made available to authorised officers upon request.
- 5.48 The specified information to be recorded must include the following information as a minimum:
- the name of the complainant and how they can be contacted,
  - the date the complaint was made and the time and date of the journey,
  - If the booking was subcontracted the details of the licensed operator who fulfilled the booking and any action taken by the subcontractor regarding the complaint or concern
  - the name of the driver and vehicle being reported,
  - the nature of the complaint or concern,
  - The date by which the operator will respond to the complaint, which must not exceed 72 hours from time of receipt,
  - The action taken if any, by the operator to resolve the complaint or concern.
- 5.49 Operators must also inform the complainant, that they can further their complaint to the council if they remain dissatisfied with the outcome of their complaint.
- 5.50 If an operator is made aware of a safeguarding or serious complaint concerning the fitness of a driver, they must notify the licensing section immediately or as soon as practically possible and provide details of the actions taken by the operator.

## **Section 6 - Safeguarding**

- 6.1. Safety, security and welfare applies to passengers and licensed drivers.
- 6.2 This Authority is committed to safeguarding and promoting the welfare of children, young people and adults at risk. We take our responsibilities seriously and expect all our licensed drivers, proprietors and operators to share this commitment.
- 6.3 Safeguarding is the process of protecting children and adults at risk from harm, preventing impairment to their health and development, which includes keeping the safe from neglect and physical, emotional and sexual abuse.
- 6.4 Licensed drivers deal with strangers, they work alone often late at night, carry cash and may be at risk of violence, non-payment of fares, verbal abuse etc. Proprietors and operators must consider these factors when determining what safeguarding measures should be in place. The council encourages the use of CCTV in licensed vehicles, but has not made it a condition of licences due to the financial burden involved. However, proprietors and operators should consider the benefits and disadvantages of safeguarding measures such as, CCTV, cashless payment systems, communication systems, etc in licensed vehicles in their risk assessments.
- 6.5 Drivers and operators may refuse to carry any passenger, but only if they have good cause, eg a customer's behaviour or demeanour is threatening, offensive or abusive or has previously refused payment. Where this occurs drivers and operators should keep records of why the service was refused.
- 6.6 All new drivers and operator applicants will be required to undertake mandatory safeguarding training before submitting an application. A provider will be appointed and further details will be added. Also to tie into driver section.

## **Section 7 - Enforcement, Compliance and Range of Powers**

- 7.1 The Council has a responsibility to ensure that all licence holders adhere to the standards and conditions applied by this authority and the legislation. It is recognised that a well-directed, risk based approach to enforcement activity by the Licensing Authority benefits not only the public but also the responsible members of the Hackney Carriage and Private Hire trades.
- 7.2 Legislation relating to a licensing regime and the conditions of licence designed to protect public safety are of no value unless they are correctly enforced by the Licensing Authority. In order to encourage responsibly Hackney Carriage and Private Hire businesses, this Authority will operate a firm but fair disciplinary and enforcement regime. In order to balance the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, this Authority will only intervene where it is necessary and proportionate to do so. Where defects are such that a vehicle or driver's licence needs to be suspended, interference with livelihood is inevitable.
- 7.3 Complaints from the public and/ or any routine enforcement that identifies significant breaches of conduct will be subject to investigation by Officers. The system will serve as an early warning system to licence holders who fail to meet the Council's required standard and as a consistent and transparent method of enforcement.
- 7.4 The Licensing Authority will take appropriate action against licence holders upon receipt of evidence that an offence has been committed. An offence may be a breach of the legislation or condition imposed on a licence, or bylaw, or this policy.
- 7.5 The Licensing Authority will share information with other agencies in respect of potential illegal activities and enter into joint enforcement operations with other agencies and authorities.
- 7.6 The Council will undertake overt and covert targeted enforcement operations as well as ad hoc compliance checks on licence holders. These operations and compliance checks may be inside and outside normal office hours and may involve partner agencies.
- 7.7 Some breaches of legislation cannot be enforced by the council, but may be enforced where appropriate, by other partner agencies, e.g. the Police, DVSA, the Home Office etc.
- 7.8 Every enforcement action taken by the council will be determined on the individual circumstances, will be in accordance with this policy, the council's enforcement policy and the Regulators Code of Practice.
- 7.9 There are a range of sanctions and actions which may be taken by the council, e.g. prosecution, suspension, revocation, refusal to renew, formal written warning, caution, verbal warning, advisory letter, note on records and no action. The course of action will depend on the severity of the offence committed, the evidence available and the risk to public safety.

### **Prosecution**

- 7.10 Prosecutions will be taken where it is in the public interest.
- 7.11 The council will revoke or suspend or refuse to renew a licence where the licence holder has committed offences that put public safety at risk.
- 7.12 Offences under legislation outside that applicable to private hire and hackney carriages may be considered, if they call into question the fit and proper status of the licence holder.

### **Suspension of a licence**

- 7.13 Where a licence holder has been referred to the Licensing and Protection Sub-Committee, the Sub-Committee may order the suspension of the licence.
- 7.14 A driver's licence may be suspended with immediate effect where it is in the interests of public safety to do so. The driver may appeal this decision to the Magistrates' Court but this will not affect the suspension starting with immediate effect.

### **Refusal to grant**

- 7.15 This Licensing Authority has the discretion to decide that a licence will not be granted if the vehicle, driver or operator does not meet the requirements of the policy. There is a right of appeal to the Magistrates' Court.

### **Revocation of a licence**

- 7.16 Where a licence holder has been referred to the Licensing and Protection Sub-Committee, the Sub-Committee may order the revocation of the licence.
- 7.17 A driver's licence may be revoked with immediate effect where it is in the interests of public safety to do so. The driver may appeal this decision to the Magistrates' Court but this will not affect the suspension starting with immediate effect.

### **Refusal to renew**

- 7.18 This Licensing Authority has the discretion to decide that, especially in the circumstances where a licence is due to expire, it would be more appropriate to refuse to renew the licence as an alternative to revocation. Drivers have the right of appeal to the Magistrates' Court.

### **Compliance**

- 7.19 Informal action to secure compliance with legislation, conditions and policy will include offering advice, requests for action, verbal advice, guidance note, the use of written instructions and the undertaking of inspections.
- 7.20 As all licence holders are considered to be 'fit and proper', they are expected to fully understand the conditions and requirements placed on them by this authority and other applicable legislation.

### **Warnings**

- 7.21 For minor breaches of licence conditions this Licensing Authority shall issue warnings as appropriate to the circumstances. A warning may be used for minor, technical or first time transgressions where it may not be in the public interest to prosecute.

### **Complaints, compliments and comments**

- 7.22 Members of the public who wish to submit complaints, compliments or comments about licensed drivers and operators can do so via the Licensing team [licensing@huntingdonshire.gov.uk](mailto:licensing@huntingdonshire.gov.uk). All complaints will be investigated and responded to.

### **Right of appeal**

- 7.23 Where an applicant or licence holder is aggrieved by the Council's decision to refuse to grant or refuse to renew a licence, revoke or suspend a licence, or impose conditions on a licence, the applicant or licence holder has a right of appeal to the Magistrates Court.

7.24 Any appeal must be lodged at the Court within 21 calendar days of the applicant/licence holder receiving written notification of the Council's decision. The appeal must state the grounds on which the appeal is based.



## **SECTION 8 - Fees, Charges and Refunds**

- 8.1 There is a statutory power for the Licensing Authority to charge fees associated with the Hackney Carriage and Private Hire licensing regime. The appropriate fee should accompany any application or renewal made. Any licences surrendered prior to their expiry, or licences that are suspended or revoked shall not be eligible for a refund.
- 8.2 The licence fees applied by this council are set on a cost recovery basis. They are regularly reviewed and any increase or reduction will be published and consulted upon as required by the legislation.

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# Agenda Item 6

Public  
Key Decision – No

**Subject Matter:** LICENSING AND PROTECTION SUB-COMMITTEE

**Meeting/Date:** Licensing and Protection Committee – 20th September 2017

**Executive Portfolio:** Councillor A Dickinson, Executive Councillor for Community Resilience, Well-Being and Regulatory Services

**Report by:** Elections and Democratic Services Manager

## 1. INTRODUCTION

- 1.1 The Licensing Sub-Committee comprising four Members of the Licensing and Protection Committee is convened when necessary to determine such matters in the case of an individual licence or application which has not been delegated to officers. Below is a summary of the meetings that have taken place since the last meeting of the Committee. Full Minutes are available on request.

Meeting Date	Chairman	Application	Determination
28 July 2017	S Criswell	New Application for a Hackney and Private Hire Licence.	Allowed to Proceed
		New Application for a Hackney and Private Hire Licence	Refused
		New Application for a Hackney and Private Hire Licence	Refused
15 August 2017	S Criswell	New Application for a Hackney and Private Hire Licence	Refused
		Review of an existing Joint Hackney Carriage and Private Hire Drivers Licence	Deferred.

## 2. RECOMMENDATION

- 2.1 The Committee are invited to note the above information.

### BACKGROUND PAPERS

Agenda and Minutes of the Licensing and Protection Sub-Committee.

**Contact Officer:** Mrs C Bulman, Democratic Services - ☎ 01480 388234.

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