

LICENSING COMMITTEE	AGENDA ITEM No. 4
12 OCTOBER 2017	PUBLIC REPORT

Report of:	Annette Joyce - Service Director of City Services & Communications	
Cabinet Member(s) responsible:	Councillor Walsh - Communities and Environment Capital	
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DRAFT BYELAWS FOR HACKNEY CARRIAGES - RESPONSES TO CONSULTATION AND RECOMMEND ADOPTION TO FULL COUNCIL

R E C O M M E N D A T I O N S	
FROM: Licensing Team	Deadline date: N/A
<p>It is recommended that the Licensing Committee:</p> <ol style="list-style-type: none"> I. review the responses (attached at Appendix G) and response table (attached at Appendix F) and confirm if they agree with officer direction that no amendments to the byelaws as drafted is required, (see 6.4) and II. recommend the adoption of the draft hackney carriage byelaws, (subject to any amendments) to full council. (See 6.4) 	

1. ORIGIN OF REPORT

1.1 This report is submitted to the licensing committee following the consultation process, (as agreed by the licensing committee on 8 December 2016) on the draft byelaws for Hackney Carriages.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to advise members of the consultation process carried out, to request members to properly consider the responses received and recommend the adoption of the draft byelaws (subject to any amendment) to full council.

2.2 This report is for committee to consider under its Terms of Reference No. 2.5.1.3 (a). To exercise the functions of the authority as listed in Schedule 2.5.4.1, where these are not delegated to officers as listed at section 2.5.3, namely hackney carriage and private hire licensing.

2.3 The adoption of the byelaws is a function reserved to the full council under its Terms of Reference 1.1.1 to make, amend, revoke or re-enact byelaws and to promote or oppose local or personal Bills.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO
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4. BACKGROUND AND KEY ISSUES

- 4.1 Hackney carriage legislation is primarily concentrated in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The aim of the legislation is to protect the public. The legislation provides a broad framework for the licensing of drivers and vehicles, but allows local authorities to set their own standards and conditions, to ensure the public travel in safe well maintained vehicles driven by competent drivers.
- 4.2 Section 68 of the Town and Police Clauses Act 1847 provides the ability for local authorities to make byelaws which regulate the conduct of proprietors and drivers of hackney carriages licensed within district.
- 4.3 The DfT (Department for Transport) have produced Model byelaws which cover the range of standard controls which most local authorities would want to impose and expect local authorities to base their byelaws on the model.
- 4.4 Where a local authority wishes to deviate from the model, they must ensure that the tests of legal validity are met. This is set out in case law, as comprising of four elements essential to validity, which are:
- byelaws must be within the powers of the local authority which makes them;
 - byelaws must not be repugnant to the general law;
 - byelaws must be certain and positive in their terms; and
 - byelaws must be reasonable.
- 4.5 Section 236 of the Local Government Act 1972 sets out the procedure etc., for byelaws. Amongst other provisions, it requires;
- a publication in a local circulating newspaper,
 - to make copies of the byelaws to be made available to any person,
 - requires confirmation from the confirming authority. (In this case, the Secretary of State for the Department for Transport.)
- 4.6 On the 8 December 2016, a report was considered by the licensing committee regarding the development, direction and consultation of an overarching policy and byelaws. The committee agreed to consult and adopt the DfT (Department of Transport) model byelaws with the inclusion, where applicable, of the other locally adopted provisions.
- (On the 6th July 2017, the licensing committee properly considered all responses to the overarching policy consultation and recommended adoption of the amended policy to full council. At a meeting on the 26th July 2017, the full council adopted the amended policy.)
- 4.7 For ease of reference, where the draft byelaws deviate from the DfT model byelaws, this is highlighted in yellow. Please see pages 3 to 6 of **Appendix A** attached.
- 4.8 Prior to consulting on the draft byelaws, provisional approval must be sought from the Secretary of State for the Department for Transport (DfT), this was obtained on the 3rd August 2017. (See **Appendix B** attached)

5. CONSULTATION

- 5.1 The draft byelaws were put out to consultation for 28 days, (being the required consultation period), from 24th August 2017 to 21st September 2017. The consultation document can be found at **Appendix A**.
- 5.2 A copy of the public notice which appeared in the local press on Thursday 24th August 2017

advising of the the consultation and period can be found at **Appendix C**.

- 5.3 The consultation document was made available at the Town Hall, Bayard Place and the council's website. Notices were put up on the taxi notice boards at the railway station and the hackney rank near the bus station, advising of the consultation and period.
- 5.4 Emails were sent to various stakeholders, advising them of the consultation and period and included a link to the consultation document on the council's website and a pdf attachment of the consultation document. **See Appendix D** for a list of those directly consulted via email.
- 5.5 Meetings with representatives of PHDF (Peterborough Hackney Drivers Federation) have taken place, where the draft byelaws were discussed. At a meeting on the 11 September 2017, representatives of PHDF verbally confirmed that they were satisfied with the byelaws as drafted, and did not wish to raise any objections or representation.
- 5.6 Statistical information showing the webiste views of the consultation document and tweet can be found at **Appendix E**.

6. CONSULTATION RESPONSES

- 6.1 A total of six responses to the consultation were received. Two from Councillors, two from Parish Councils and two from the Police. A response table which details the salient points of the consultation responses, and officer comment, can be found at **Appendix F**
- 6.2 In brief, of the six responses received, two confirm they have no issue, one was a query regarding private hire conditions, two relate to the standard of driving by licensed drivers, with particular regard to dropping off and picking up passengers, and one regarding licensed drivers leaving rubbish in a particular area. The full responses to the consultation can be found at **Appendix G**. Please note, due to data sensitivity, certain identifying detail has been redacted.
- 6.3 All responses received during the consultation period must be properly considered prior to determining the final byelaws. Officers have reviewed the responses and are of the opinion that none of the responses received have suggested that the byelaws as drafted, should be amended.
- 6.4 Members are asked to properly consider all the responses received to the consultation and determine:
- I. Should the byelaws as drafted be amended in light of responses? and
 - II. Recommend to full council that the byelaws as drafted or amended be adopted

7. ANTICIPATED OUTCOMES OR IMPACT

- 7.1 Members will properly consider the responses received during the consultation process and make a determination if the byelaws, as drafted should be amended in light of the responses, and recommend to full council to adopt the byelaws, with or without amendments. (Only full council can adopt byelaws).

8. REASON FOR THE RECOMMENDATION

- 8.1 The adoption of the byelaws which regulate proprietors and drivers of hackney carriages will provide clarity for those bound by them and will strengthen the council's enforcement powers. Failure to comply with a byelaw is a summary offence and can lead to a level 2 (£500) fine.

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 Retain the status quo

10. IMPLICATIONS

Financial Implications

10.1 There are no financial implications associated with the adoption of the byelaws.

Legal Implications

10.2 The adoption of the byelaws by full council will provide a legal standing for those who fail to abide by them.

Equalities Implications

10.3 There are no equality implications.

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- DfT Hackney Carriage Model Byelaws (August 2014)
- Town and Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Part 2 Local Government Act 1972

12. APPENDICES

12.1 Appendix A - Consultation document
Appendix B - Provisional approval from the DfT email
Appendix C - Public notice which appeared in a local circulating newspaper
Appendix D - List of consultees who were emailed directly
Appendix E - Website stats and tweet
Appendix F - Response table with officer comment
Appendix G - Consultation responses in full