



# AGENDA

**NOTE: In the case of non-members, this agenda is for information only**

- Committee** - **LICENSING COMMITTEE**
- Date & Time** - WEDNESDAY, 22ND MARCH, 2017 AT 10.00 AM
- Venue** - NORFOLK ROOM, THE CONFERENCE SUITE, ELIZABETH HOUSE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Persons attending the meeting are requested to turn off mobile telephones

**Members:**

Councillor M. Chapman-Allen  
(Chairman)  
Mr K. Martin (Vice-Chairman)  
Mr S Askew  
Mrs E J Bishop  
Councillor C Bowes  
Mr R. F. W. Brame  
Mr P. R. W. Darby  
Mr R.W. Duffield

Mr K.S. Gilbert  
Mrs J. Hollis  
Mrs K. Millbank  
Mrs L.H. Monument  
Mr T F C Monument  
Mr W. R. J. Richmond  
Mr F.J. Sharpe

Democratic Services  
Elizabeth House, Walpole Loke,  
Dereham Norfolk, NR19 1EE

Date: Monday, 13 March 2017



**PART A- ITEMS OPEN TO THE PUBLIC**

	<u>Page(s)</u> <u>herewith</u>
<b>1. <u>MINUTES</u></b> To confirm the Minutes of the meetings held on 11 January 2017.	5 - 9
<b>2. <u>APOLOGIES</u></b> To receive apologies for absence.	
<b>3. <u>URGENT BUSINESS</u></b> To note whether the Chairman proposes to accept any item as urgent business, pursuant to Section 100(B)(4)(b) of the Local Government Act, 1972.	
<b>4. <u>DECLARATION OF INTERESTS</u></b> The duties to register, disclose and not to participate for the entire consideration of the matter, in respect of any matter in which a Member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011. Members are also required to withdraw from the meeting room as stated in the Standing Orders of this Council.	
<b>5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u></b> To note the names of any non-members who wish to address the meeting.	
<b>6. <u>FEEDBACK AND DISCUSSION ON RECENT PANEL MEETINGS</u></b> Verbal report by Tiffany Bentley, Licensing Officer.	
<b>7. <u>TAXI LICENSING AND THE EQUALITY ACT 2010</u></b> Report by Donna Hall – Licensing and Business Support Manager.	10 - 13

**BRECKLAND COUNCIL**

**At a Meeting of the**

**LICENSING COMMITTEE**

**Held on Wednesday, 11 January 2017 at 10.00 am in  
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

**PRESENT**

Councillor M. Chapman-Allen (Chairman)	Mr K.S. Gilbert
Mr K. Martin (Vice-Chairman)	Mrs K. Millbank
Mr S Askew	Mrs L.H. Monument
Mrs E J Bishop	Mr T F C Monument
Councillor C Bowes	Mr W. R. J. Richmond
Mr P. R. W. Darby	Mr F.J. Sharpe

**Also Present**

Detective Constable Andy  
Brown

**In Attendance**

Tiffany Bentley	- Licensing Officer
Donna Hall	- Licensing & Business Support Manager
Sarah Wolstenholme-Smy	- Interim Legal Services Manager
Julie Britton	- Democratic Services Officer

**Action By**

**1/17 MINUTES (AGENDA ITEM 1)**

The Minutes of the meeting held on 12 October 2016 were confirmed as a correct record and signed by the Chairman.

**2/17 APOLOGIES (AGENDA ITEM 2)**

Apologies for absence were received from Cllrs Hollis and Duffield.

**3/17 URGENT BUSINESS (AGENDA ITEM 3)**

None.

**4/17 DECLARATION OF INTERESTS (AGENDA ITEM 4)**

None.

**5/17 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA  
ITEM 5)**

None.

**6/17 QUARTERLY TEAM UPDATE REPORT (AGENDA ITEM 6)**

The Licensing & Business Support Manager provided Members with an update on the activities of the Licensing Team from October to December 2016.

It was noted that though the numbers were quite low, there was still a great deal of work involved in relation to the scrap metal applications and renewals. The Animal Boarding Licence renewals were higher than normal but this had been due to the expiry date being at the end of the year.

The Licensing Team was now using the services of Norfolk County Council Road Safety Team for the DVSA assessments; this had been working well and no procurement exercise had been necessary. Members were content to carry on with this approach.

An internal audit had been carried out in December 2016; the draft report was awaited; however, the verbal feedback that had been received had been positive. One audit recommendation had been to review the taxi licensing fees and policy both of which were underway.

Councillor Darby mentioned the number of Panels/Hearings that were scheduled and asked if this was normal. Members were informed that these were quite difficult to predict but the Licensing Panels were triggered by the Council's Policy; however, the last two had stemmed from the investigations by Trading Standards. The Chairman credited the work of the Trading Standards Team.

Councillor Darby also asked if Breckland had many Uber drivers. Members were informed that there was none that the Licensing Team was aware of in the Breckland area. The taxi legislation did not include that activity at all although it was just a matter of time before one came in; therefore, the Licensing Team was getting prepared just in case.

The report was otherwise noted.

**7/17 SCRAP METAL LICENSING - THREE YEARS ON (AGENDA ITEM 7)**

The Chairman welcomed Detective Constable Andy Brown from Norfolk Constabulary to the meeting. He had been invited to the meeting to speak about the partnership working with the Licensing Team on scrap metal licensing, particularly as the three year milestone had just passed following the introduction of the Scrap Metal Act, and the 3 year renewals for Breckland sites and collectors had just been carried out.

DC Brown provided the Committee with a detailed overview of what his role entailed, the problems encountered and the excellent relationship he had with the Breckland Licensing Team. He managed seven districts but felt that the Breckland Team was above the rest which he knew was down to the hard work, dedication and excellent communication of the Officers involved. The Chairman concurred with the above comments and thanked DC Brown for his high commendation.

DC Brown had been appointed to his current position in 2007 and had a very robust stance with the scrap metal dealers in Norfolk. In early 2010

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cashless legislation was brought in following the increase in scrap metal prices; however, this Act, in his opinion, was not fit for purpose and was due to be re-visited in 2018. He encouraged the Officers concerned to send any feedback to the Home Office stating their views on what they felt worked and what did not. There were a number of definitions in the Act that needed to be made clear for instance, the definition of scrap and what was deemed to be a 'fit and proper person' when issuing a licence.

He explained the problems he had with serving notice on illegal sites and the various issues encountered with 'dealers' collecting from private dwellings. The licence itself provided certain powers to the local authority and the Police (as long as notice was given) to check scrap metal premises but for a collector issued with a licence residing at a private address there were no such powers only if stopped in transit.

The Safety Advisory Group was highlighted which was a Forum hosted by Breckland Council and managed by the Licensing Team and included officers from Norfolk Constabulary, Norfolk Fire and Rescue Service, East of England Ambulance NHS Trust, Norfolk County Council Highway Authority, Breckland Council Emergency Planning and Environmental Health. One of these events had asked collectors of scrap metal to bring their licenses in to ensure compliance and to assist those who were applying for a licence but had reading and writing difficulties in completing the application form.

The Licensing Officer reminded Members that the Environment Agency was also involved as scrap metal dealers that had a licence also had to have a permit.

Members were provided with an idea of scrap values.

Councillor Gilbert asked how much notice had to be given to visit a site. Members were informed that the Act stated 'reasonable' notice must be served.

Councillor Bishop asked DC Brown how he dealt with the Travelling Communities who were often involved in scrap metal collections without a licence. She also asked about penalties. In response, it was highlighted that this was also about getting the Act/legislation changed; however, Planning Enforcement could also be involved but only by way of a written complaint. In response to the latter question, Members were informed that a closure notice would have to be issued; the process of which was explained.

Councillor Bowes asked about the prosecution rate for Church (lead) theft. DC Brown explained that he spoke with the Diocese every day and visited every single theft and much was put in place to try and prevent these thefts. It was noted; however, that the responsibility of stopping the theft was not down to the Police but the owner of the Diocese.

Councillor Darby felt that all these Acts/legislations/laws etc could drive many people underground which in its self could cause more people to fly-tip. DC Brown said that most recycling centres took old electrical items such as refrigerators or if transportation was an issue then the item could be collected by Serco in Breckland's case or a registered scrap dealer

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could be contacted; there were many ways of getting rid of unwanted items so there was no excuse to fly-tip.

Councillor Richmond had noted that there was not much interaction with the Planning Enforcement Team and asked how this could be improved. It was noted that this could be improved by way of more communication and relevant protocols being put in place as this was just the same as an illegal activity without the relevant planning permission. The Licensing Officer pointed out that although very separate; there were certain powers in place.

Councillor Monument was interested in the feedback to the Home Office and was keen to share her ideas on relevant wording. She was also in strong support of applicants being able to prove whether they could read or write before applying for a licence.

The Chairman thanked DC Andy Brown for a very interesting discussion and assured him that all this useful information would be taken forward.

**8/17 IMMIGRATION ACT (AGENDA ITEM 8)**

The Licensing & Business Support Manager presented the report.

The Immigration Act had been discussed albeit briefly at the previous meeting as it was unclear at that time what the Act would be. The Immigration Act 2016 had come into effect on 1<sup>st</sup> December 2016. All nationalities, including UK citizens, who held a taxi or private hire driver licence or private hire operator licence, must now undergo the new immigration check known as "right to licence check". The Licensing Team had attended relevant training sessions provided by the Home Office. This was not considered to be an onerous task for the Licensing Team; however, this additional check could be more complicated for non UK citizens. The Council's Customer Contact Centre had been briefed on how to complete these new checks in conjunction with the Licensing Team. The Team had a good contact in the Home Office as there would be additional checks in relation to the Licensing Act coming into force in the Spring.

Existing licence holders must undergo the check on their next renewal from 1 December 2016.

Councillor Martin asked how such drivers could get a licence without being able to speak, read or write in English. The Licensing & Business Support Manager explained that there would be a number of checks that drivers would have to go through and a training session could be introduced as part of the process.

In response to a question, the length of time between renewals was three years. All other checks were completed on renewal and there were safeguards in place linked to the Disclosure and Barring Service (DBS) for certain offences.

A question in relation to whether anything was in place for foreign nationals to take a UK driving test was clarified.

**Action By**

The report was otherwise noted.

**9/17 NEXT MEETING (AGENDA ITEM 9)**

The arrangements for the next meeting on Wednesday, 22 March 2017 at 10.00am in the Norfolk Room were noted.

The meeting closed at 11.40 am

CHAIRMAN

**BRECKLAND DISTRICT COUNCIL**

**Report of:** Executive People and Public Protection Manager

**To:** Licensing Committee 22<sup>nd</sup> March 2017

**(Author:** Donna Hall – Licensing and Business Support Manager)

**Subject:** Taxi Licensing and the Equality Act 2010

**Purpose:** The purpose of this report is to ask Members of the Licensing Committee to make a decision on the implementation of sections 165, 166 and 167 of the Equality Act 2010

**Recommendation:**

- 1) That Members of the Committee consider the information within this report and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010

**1.0 BACKGROUND**

- 1.1 The Government is now introducing sections 165 and 167 of the Equality Act 2010 in relation to the assistance of passengers in wheelchairs using designated taxi and private hire vehicles (PHVs). Statutory guidance has been issued by the Department of Transport in support of this which local authorities must have regard to. These requirements are expected to come into effect on 6<sup>th</sup> April 2017
- 1.2 These provisions allow a licensing authority to create a list of “**designated vehicles**” vehicles which are capable of carrying passengers in wheelchairs (section 167) and then require drivers of those vehicles to provide mobility assistance (section 165).
- 1.3 Section 167 states that a local authority “ **may** maintain a list of vehicles” This is seen as a power rather than a duty but the guidance issued by the Department for Transport “**recommends strongly**” that licensing authorities do maintain such a list. Section 1.12 states “Whilst Licensing Authorities are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.
- 1.4 According to the guidance, a vehicle can be included on a licensing authority’s list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. Vehicles should also be able to carry passengers in their wheelchairs should they prefer. This means that to be placed on a licensing authority’s list a vehicle must be capable of carrying some, but not necessarily all, types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included on the authority’s list if it would be possible for the user of a “reference wheelchair” to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

1.5 Section 165 sets out the duties placed on drivers of these designated wheelchair accessible taxis and PHVs. The duties are:

- To carry the passenger while in the wheelchair;
- Not to make any 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 that the passenger is carried in safety and reasonable comfort;
- To give the passenger such “mobility assistance” as is reasonably required

“Mobility assistance” is defined as assistance:

-to enable the passenger to get into or out of the vehicle

- if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair

- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle

1.6 It will be an offence for a licensed driver on the designated list, unless exempt as outlined below, to fail to comply with these duties.

1.7 Some drivers may have a medical or physical condition or disability which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. The local authority may therefore grant exemptions from the duties to individual drivers under the provisions of section 166 of the Act. This exemption has been available since 2010. Drivers who are granted exemptions will be issued with an exemption certificate and a notice to display in the vehicle. The purpose of the notice is to clearly communicate to passengers in wheelchairs whether the driver has been exempted from the duties to provide assistance. The format of the notice is to be prescribed in regulations.

1.8 Licensed drivers on the designated list are expected to comply with the section 165 duties regardless of where the journey starts or ends. If a driver is convicted of breaching their duties it would be appropriate for the licensing authority to review whether or not they remained a fit and proper person to hold a licence.

1.9 The legislation states that a licensing authority “may” maintain a list of vehicles designated as capable of carrying passengers in wheelchairs. The Licensing Authority must therefore make a decision as to whether it will enact this requirement, as recommended by the Department for Transport. The licensing authority does not currently hold such a list.

1.10 If the Committee decide that the licensing authority should maintain such a list, a number of steps will be taken as outlined below:

- a) Prepare draft lists of wheelchair accessible vehicles
- b) Set out policy for exempting drivers on medical and physical condition grounds
- c) Set out policy for determining what is a wheelchair accessible vehicle
- d) Inform owners that their vehicles will be placed on the list and alert drivers to their upcoming duties
- e) Drivers apply for exemptions where necessary
- f) Licensing authority issues driver exemptions where necessary
- g) Licensing authority publishes list of designated wheelchair accessible vehicles and duties on drivers then take effect

## 2.0 **OPTIONS**

2.1 Members decide to enact the provisions of sections 165, 166 and 167 of the Equalities Act 2010 by implementing and maintaining a designated list of wheelchair accessible vehicles and the associated duties for drivers.

2.2 Members decide to do nothing and not enact the provisions of sections 165, 166 and 167 of the Equality Act 2010.

### 3.0 REASONS FOR RECOMMENDATION

3.1 It is recommended that Members consider the information within this report and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010. The Licensing Authority is required to have regard to the statutory guidance published by the Department for Transport which states that the Government recommends strongly that they do so.

### 4.0 EXPECTED BENEFITS

4.1 By making a decision on whether to enact these requirements, the Licensing Authority will be able to hold a clear policy so that the public and trade are informed on whether these provisions apply, and if so, how they are being implemented.

4.2 If the decision is taken to implement the provisions, the Government view is that the provisions are intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicles.

### 5.0 IMPLICATIONS

#### 5.1 Constitution & Legal

5.1.1 The provisions are considered to be a power or option rather than a legal duty.

#### 5.2 Corporate Priorities

5.2.1 The changes if implemented could provide more information and choice to the public requiring disabled access to taxis. This directly contributes to the corporate priority of “enabling stronger, more independent communities”.

#### 5.3 Crime and Disorder

5.3.1 The new requirements if enacted carry a criminal penalty if a licensed driver on the designated list fails to comply. Information will be provided to all affected proprietors and drivers to ensure that the new requirements are understood.

#### 5.4 Equality and Diversity / Human Rights

5.4.1 These measures within the Equality Act are designed to prevent discrimination and improve equality for people who are disabled

#### 5.5 Finance

5.5.1 Any additional work carried out as part of the licensing process can be reflected in the taxi licensing fees which are programmed to be reviewed this year. The team will also consider providing additional training for drivers on mobility assistance which may be charged for.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All

7.0 **ACRONYMS**

PHV Private Hire Vehicle

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Background papers:- Department for Transport "Access for wheelchair users to Taxis and Private Hire Vehicles" Statutory Guidance 2017

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**Lead Contact Officer**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**