

Mission Statement

To Improve the Quality of Life
For Those Who Live and Work in The District

31 August 2007

Dear Councillor

You are hereby invited to a meeting of the Licensing Committee to be held in Committee Room 2, Civic Centre, Portholme Road, Selby on Monday, 10 September 2007 commencing at 10.00am.

The agenda is set out below.

1. Apologies for Absence and Notice of Substitution

To receive apologies for absence and notification of substitution.

2. Disclosure of Interest

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Sections 94 and 117 of the Local Government Act 1972 or the National Code of Local Government Conduct.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 6 August 2007 (pages 5 – 7).

4. Procedure

To outline the procedure to be followed at the meeting (pages 8 – 9).

5. Chair's Address to the Licensing Committee

6. Introduction of New Legislation Dealing with the Suspension/Revocation of Hackney Carriage and Private Hire Drivers' Licences

Report of the Licensing Enforcement Officer (pages 10 – 14).

7. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

8. Application for a Private Hire Driver's Licence

Report of the Head of Service – Legal and Democratic Services (pages 15 - 23).

9. Application for a Hackney Carriage Licence

Report of the Head of Service – Legal and Democratic Services (pages 24 - 48).

M Connor
Chief Executive
31 August 2007

Disclosure of Interest – Guidance Notes:

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].

Dates of Future Meetings of the Licensing Committee

Date of Meeting
8 October 2007
5 November 2007
3 December 2007
7 January 2008

Membership of the Licensing Committee 10 Members

Conservative	Labour	Independent
J Dyson	D Davies	J McCartney
K McSherry	S Duckett	
C Pearson (Vice-Chair)		
S Ryder		
R Sayner (Chair)		
A Spetch		
D White		

Enquiries relating to this agenda, please contact Tracey Peam on:

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Descriptions of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Qualifications for Exempt Information:

Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -

 - (a) the Companies Act 1985;
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Industrial and Provident Societies Acts 1965 to 1978;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 1993.
9. Information falling within any of the 7 categories listed above is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which;
 - (a) falls within any of paragraphs 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on Monday 6 August 2007, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10:00 am.

231	Minutes
232	Procedure
233	Chair's address to the Licensing Committee
234	Private Session
235	Complaint about behaviour of Hackney Carriage Driver

Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs J Dyson, Mrs S Duckett, Mrs K McSherry, C Pearson, Mrs S Ryder, Mrs A Spetch and Mrs D White.

Officials: Head of Service – Legal and Democratic Services, Licensing Enforcement Officer, Enforcement Officer and Committee Administrator

Public: 0

Press: 0

229 **Apologies for Absence and Substitution**

An apology was received from Councillor J McCartney.

230 **Disclosure of Interest**

None.

231 **Minutes**

Resolved:

That the minutes of the proceedings of the meeting of the Licensing Committee held on 9 July 2007 be confirmed as a correct record and be signed by the Chair.

232

Procedure

The Procedure was noted.

233

Chair's Address to the Licensing Committee

The Chair informed Councillors that the report in respect of the Gambling Act would be presented at the meeting to be held on 10 September 2007.

234

Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, as there will be disclosure of exempt information as defined in paragraph 3 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.

235

Complaint about behaviour of Hackney Carriage Driver

Councillors received the report of the Licensing Enforcement Officer in respect of an allegation that the Hackney Carriage Driver refused to take a fare from the rank in James Street, Selby to a public house in Ousegate, Selby.

The Licensing Enforcement Officer outlined details of the case to councillors and answered questions raised.

The Hackney Carriage Driver admitted the offence but explained that this was common practice for Hackney Carriage Drivers 1 – 19 on the rank. If they had a prior booking then the fare would be passed to the next available taxi on the rank. If there was no taxi behind on the rank then the fare would be taken. However, he accepted it was a bad practice and could leave a poor impression upon a potential passenger.

The Committee deliberated over the decision as to whether this driver was a fit and proper person and it was agreed that the driver be given a final warning as to his future conduct.

It was also agreed that a letter be sent to all Hackney Carriage Drivers emphasising that the practice of refusing fares in these circumstances was unlawful and any future breaches could result in court action.

Resolved: That

- (i) the hackney carriage driver be given a final written warning as to his future conduct;**
- (ii) a letter be sent to all hackney carriage drivers from the Licensing Enforcement Officer informing them that the practice of refusing fares in these circumstances would not be tolerated and any future cases may be dealt with at Magistrates Court.**

The meeting closed at 11:05 am.

LICENSING COMMITTEE

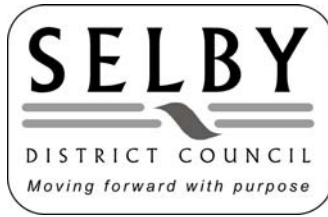
PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Members of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Members of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, press and public, will then be asked to withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Committee Section will inform in writing to the applicant the decision of the Licensing Committee.



Agenda Item No: 6

Title: Introduction of new legislation dealing with the suspension/revocation of Hackney Carriage and Private Hire Driver's Licences

To: Licensing Committee

Date: 10 September 2007

Service Area: Legal and Democratic Services

Author: Tim Grogan

Presented by: Tim Grogan

1. Purpose of Report

1.1 To review the changes to Hackney Carriage and Private Hire legislation under the Road Safety Act 2006.

2. Recommendation

2.1 **That the Council authorise the Licensing Enforcement Officer:**
(a) to suspend Hackney Carriage or Private Hire Driver's licences in accordance with Section 52 of the Road Safety Act 2006

(b) to lift any such suspension in accordance with section 52 of the Road safety Act 2006.

2.2 **That the Licensing Committee continue to have power to revoke Hackney Carriage and Private Hire Driver's licences in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.**

3. Executive Summary

- 3.1 Up until 16th March 2007 the legislation governing Hackney Carriage and Private Hire Driver, Vehicle and Operator licensing permitted the District Council in appropriate circumstances to suspend or revoke a driver's licence. However, in the event of an appeal against this decision the driver was allowed to operate until a Magistrates Court could hear the appeal.
- 3.2 Since 16th March 2007, Section 52 of the Road Safety Act 2006 has given Licensing Authorities the power to suspend or revoke a licence with immediate effect if they are of the opinion that the interests of public safety require such a course of action. In these circumstances such a driver would therefore be unable to operate pending that appeal.

4. The Report

- 4.1 Legislation governing Hackney Carriage and Private Hire Carriage Driver, Vehicle and Operator Licensing is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 permits Licensing Authorities to revoke or suspend a driver's licence on any of the following grounds:
- (a) that he has since the grant of his licence -
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976
 - (b) any other reasonable cause
- 4.3 However, once a driver was suspended or had his licence revoked he could appeal this decision by way of the Magistrates Court and, until the case could be heard, the driver was entitled to operate.
- 4.4 Section 52 of the Road Safety Act 2006 gives the Licensing Authority the power to suspend or revoke a driver's licence with immediate effect where they are of the opinion that the interests of public safety require such a course of action. This would therefore prevent a driver from operating pending an appeal.
- 4.5 The Department of Transport have not issued any guidelines to Local Authorities on the operation of this section.
- 4.6 Currently the Licensing Enforcement Officer has delegated authority to suspend licences but the authority to revoke a licence rests with the Licensing Committee.

4.7 It is therefore proposed that the Licensing Enforcement Officer be given delegated authority to continue to suspend a driver's licence where it is considered appropriate and where there are compelling reasons to do so and that this Officer also be given delegated authority to lift this suspension when public safety is no longer compromised. In addition that the power to revoke a driver's licence remain with the Licensing Committee.

5. Financial Implications

5.1 There are no financial implications.

6. Link to Corporate Plan

6.1 It is the Corporate Policy of the Council to promote the health and safety of those who live and work in the District.

7 How Does This Report Link to Council's Priorities?

7.0 It is a Council priority to promote the health and safety of those who live and work in the District.

8 Impact on Corporate Policies

8.1 **Service Improvement** **No Impact**

8.2 **Equalities** **No Impact**

8.3 **Community Safety and Crime** **No Impact**

8.4 **Procurement** **No Impact**

8.5 **Risk Management** **Impact**
The failure to exercise this power correctly could result in the Council facing action for loss of earnings. It is therefore important that a robust system is put in place to ensure that the action and the reasons behind the action are properly recorded.

8.6 **Sustainability** **No Impact**

8.7 **Value for Money** **No Impact**

9 Background Papers

9.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976

9.2 Section 52 of the Road Safety Act 2006

61. Suspension and revocation of drivers' licences.—

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
 - (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- (2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

(b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F1 level 1 on the standard scale].
- (3) Any driver aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

Hackney carriages and private hire vehicles

52 Immediate suspension and revocation of drivers' licences

(1) Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (hackney carriages and private hire vehicles in England and Wales outside London) is amended as follows.

(2) In section 61 (suspension and revocation of drivers' licences), after subsection (2) insert—

“(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.”

(3) In subsection (3) of that section, after “under” insert “subsection (1) of”.

(4) In section 77 (appeals), after subsection (2) insert—

“(3) Subsection (2) of this section does not apply in relation to a decision under subsection (1) of section 61 of this Act which has immediate effect in accordance with subsection (2B) of that section.”