

## **LICENSING AND SAFETY COMMITTEE**

**28 NOVEMBER 2013**

### **LICENSING ACT 2003**

## **UPDATE ON LEGISLATION AFFECTING LICENSING**

Report from: Perry Holmes - Assistant Director (Legal & Corporate Services)

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#### **Summary**

The purpose of this report is to update the Committee on changes to licensing legislation and to seek the approval of the Licensing and Safety Committee for officers to draft the following policies for consultation, consideration and ultimate adoption by the Council:

- (1) a convictions policy for Hackney Carriage, Private Hire Drivers and Operators and
- (2) a policy outlining the requirements of The Scrap Metal Dealers Act 2013.

#### **1. Budget and Policy Framework**

- 1.1 Licensing is a non-executive function but the policies proposed by this report are not policy framework documents and as such are a matter for determination by the Licensing and Safety Committee.

#### **2. Background**

- 2.1 The purpose of this report is to seek the approval of the Licensing and Safety Committee for officers to draft the following policies:

- (1) a convictions policy for Hackney Carriage, Private Hire Drivers and Operators and
- (2) a policy outlining the requirements of The Scrap Metal Dealers Act 2013.

#### **3. Convictions Policy for Hackney Carriage, Private Hire Drivers and Operators**

- 3.1 The intention of this document is to set out the Council's policy as a Licensing Authority, with regard to convictions against applicants for the grant or renewal of hackney carriage, private hire driver licences and private hire operator licences. The aim is for the policy to also

address other indicators of the fitness of an applicant/licensee such as formal cautions, reprimands, warnings and complaints.

- 3.2 This policy will aid consistent and fair decisions when considering criminal convictions, cautions, reprimands, warnings or complaints received. The objectives of this policy will be to secure, as far as reasonably possible, the safety of Hackney Carriage/Private Hire Vehicle Passengers and their property and the protection of their consumer rights. In exercising our licensing function concerning drivers and operators, we will be mindful of our duty under section 17 of the Crime and Disorder Act 1998 to do so with due regard to the likely effect of the exercise of that function on, and in the need to do all that we reasonably can to prevent, crime and disorder in Medway.
- 3.3 The intention is for this document along with details of an enforcement points system to form part of a Drivers handbook to be issued to all Hackney Carriage and Private Hire drivers licensed in Medway. Once adopted, both licensing officers and licensing committees would have regard to it in making decisions on relevant applications.

#### **4. Scrap Metal Dealers Policy.**

- 4.1 The Scrap Metal Dealers Act 2013 (the Act) came into effect on 1 October 2013, repealed previous legislation and created a revised regulatory regime for scrap metal recycling and vehicle dismantling industries.
- 4.2 The Act maintains local authorities as the principal regulator. It also provides the local authority improved powers to regulate these industries by allowing the refusal of a licence to 'unsuitable' applicants and a power to revoke a licence if the dealer becomes 'unsuitable'.
- 4.3 The aim of the policy will be to outline the requirements of the Act, providing guidance to new applicants, existing licence holders, consultees and members of the public as to how the Council will administer and enforce the requirements of the Act.

#### **5. Risk Management**

- 5.1 The policies must be fully in line with relevant legislation. Full consultation on the policies with relevant stakeholders will minimise the risk of challenge. Officers and the Committee will need to be aware of any effect these policies will have on existing licence holders and this will be a matter that is considered during the drafting of the policies

#### **6. Financial and legal implications**

- 6.1 There are no direct financial implications currently arising from this report. The Council is under no legal obligation to have the policies referred to in this report in place however these policies will assist the council in achieving consistency, fairness and transparency in its decision-making process. Application of the policies in its decision-making will enable the council to minimise successful legal challenges. In making decisions regarding applications, Licensing Officers and

Committees should have regard to all the circumstances of a particular case and would be entitled to have due regard to these policies.

## **7. Recommendations**

7.1 The Committee is asked to:

- (a) approve the proposal for officers to draft a policy document in consultation with the Chairman and opposition spokesperson as set out at 3 above in respect of a convictions policy for Hackney Carriage, Private Hire Drivers and Operators
- (b) approve the proposal for officers to draft a policy document in consultation with the Chairman and opposition spokesperson as set out at 4 above in respect of a policy outlining the requirements of The Scrap Metal Dealers Act 2013

7.2 Instruct officers to consult appropriately and include internal consultation and report back to this Committee with a final draft version for approval.

### **Lead officer contact**

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### **Background papers**

None