

Present: Councillor Kathleen Brothwell (*in the Chair*),
Councillor Loraine Woolley, Councillor Biff Bean,
Councillor Ronald Hills, Councillor Adrianna McNulty,
Councillor Fay Smith, Councillor Ralph Toofany,
Councillor Paul Gowen, Councillor Pat Vaughan and
Councillor Tony Speakman

Apologies for Absence: Councillor Keith Weaver, Councillor Andy Kerry and
Councillor Gill Clayton-Hewson

28. Declarations of Interest

No declarations of interest were received.

29. Licensing Act 2003 and Gambling Act 2015 Hearings Procedure

The Committee was sitting as the Licensing Committee of the Licensing Authority under the Licensing Act 2003 and Gambling Act 2005. Councillor Tony Speakman withdrew from the Committee during the consideration of this item due to the fact that he was a substitute member and not a full member of the Committee.

The Legal and Democratic Services Manager:

- a. presented a report to the Committee which proposed some minor changes to the Constitution and changes to the procedures
- b. advised that one change to be made was to Article 8, clause 8.2 'Proceedings of Regulatory and other Committees' in the Constitution. Therefore 8.2(iii) would read 'The Licensing Committee and Licensing Sub-Committee when acting in accordance with the Licensing Act 2003 and the Gambling Act 2005 should conduct the proceedings in accordance with their own hearing procedure'
- c. explained that in the Access to Information Procedure Rules, in section 6 an additional sentence would be added to read 'Meetings held under the Licensing Act 2003 and the Gambling Act 2005 would have only their agenda published'
- d. requested that reports and related documents would only be available to those who were party to the proceedings at that time
- e. suggested that under the 2003 and 2005 Act there was not a requirement for minutes to be typed up, only that the record of any decision be kept on a permanent basis
- f. invited members' questions and comments.

Members asked for clarification that there would be a record kept of the handwritten notes of these meetings. This was confirmed.

RESOLVED that the above recommendations be forwarded to full Council for adoption.

30. Confirmation of Minutes - 14 June 2017

RESOLVED that the minutes of the meeting held on 14 June 2017 be confirmed.

31. Hackney Carriage and Private Hire minutes of previous meeting

RESOLVED that the minutes of the Hackney Carriage and Private Hire Licensing Sub-Committee held on 1 June 2017, 6 July 2017, 3 August 2017 and 2 November 2017 be confirmed.

32. Proposal to Introduce a List of Designated Wheelchair Accessible Hackney Carriage and Private Hackney Vehicle in Accordance with the Equality Act 2010

The Licensing Officer:

- a. presented a report which informed Members of the Committee of the provisions of the Equality Act 2010 (The Act) in relation to wheelchair users' access to hackney carriage and private hire vehicles;
- b. requested that Members gave their views on whether or not to maintain a list of designated wheelchair accessible vehicles for the purpose of The Act
- c. requested that should a list be approved and maintained that any requests for exemptions (due to medical reasons) be delegated to the Hackney Carriage and Private Hire Licensing Sub-Committee.

Members of the Committee asked what the implications were for holding or not holding a list.

The Licensing Officer responded that Section 165 placed the duties on the driver of a designated vehicle which was listed and these duties included:

- a. to carry the passenger whilst in the wheelchair
- b. not to make any additional charges for doing so
- c. should the passenger choose to sit in a passenger seat, the driver would carry the wheelchair
- d. the driver was to take such steps as were necessary to ensure that the passenger was carried in safety and in reasonable comfort
- e. the driver was to give the passenger such mobility assistance as was reasonably required

The decision was made as follows:

A unanimous vote was taken by the Committee that the City of Lincoln Council would maintain a list of Wheelchair Accessible Vehicles.

It was agreed that the request for exemptions (for medical reasons) would be delegated to the Hackney Carriage and Private Hire Licensing Sub-Committee.

Reasons for the decision:

The Committee had taken into account the views of the private hire drivers and operators in their responses to the consultation and were empathetic to their views. These included the following:

- Extra costs of Wheelchair Accessible Vehicles and/or cost of conversion of these vehicles.
- Costs of training for drivers.
- Additional costs for relevant insurance.

Members also took into account other responses which were summarised in the report and included:

- Primary consideration should be for those who use wheelchairs and that disabled people should only pay the same as able bodied customers.
- The protected characteristics would need to be taken into account.
- Potentially those who had been refused access to vehicles - a quarter of disabled people as quoted in the consultation at page 68 of the report.

In addition members considered:

- The equality impact assessment.
- The position held by other local district authorities.
- The consultation letter from the Licensing Officer which highlighted the potential outcomes both with or without a list.
- Adverse reaction from proprietors and drivers.
- That there could be a reduction in wheelchair accessible vehicles.
- Increased enforcement and prosecution.
- Increased costs to the general public.

RESOLVED that:

- a. the City of Lincoln Council would maintain a Wheelchair Accessible Vehicle list
- b. medical exemptions, under section 166 of the Act for Hackney Carriage and Private Hire Drivers, would be delegated to the Hackney Carriage and Private Hire Licensing Sub-Committee
- c. it was determined that the Licensing section would explore the possibility of procuring a wheelchair to ensure that the WAV's were capable of carrying the reference wheelchair. The use of the measurements given as guidance to be tested to establish if these alone were adequate
- d. that a condition would be added to the current licensing conditions in respect of hackney carriages as their drivers were controlled by the meter. The guidance advised that switching the meter on whilst loading and unloading should not be permitted and that a condition would be placed on the vehicle licence to prevent this. The wording of such a condition would be formulated by the Licensing Officer and a Solicitor and then approved by the Chair of the Licensing Committee at a later date

34. Medical Exemption Certificate for an Existing Hackney Carriage Driver

The Licensing Officer:

- a. presented a report to ask the Licensing Committee to consider granting a medical exemption certificate under Section 166 of the Equality Act 2010
- b. explained that the Licensing Team had received a letter from a GP on behalf of the licensee. This letter recommended that the licensee should be exempt from accepting wheelchair customers due to the degeneration of the spinal facet joints which could cause severe spasm
- c. stated that the licensee was advised to provide a specialist report to support his application and this was provided by the licensee and was from a consultant orthopaedic and spinal surgeon at the BMI hospital in Lincoln.

The decision was made as follows:

That the medical exemption certificate be granted indefinitely with the Licensing Team monitoring the driver's medical condition at the time of his medical renewal.

Reasons for the decision:

- The Hackney Carriage Driver explained his situation clearly and concisely and answered the Committee's questions thoroughly.
- That the evidence from the Consultant was substantive enough for the Sub-committee to unanimously agree that an exemption could be granted.
- That the Licence Holder would be monitored for any changes in the his medical condition in particular at the time of his medical renewal.
- The Committee stated that they endorsed the changes to the procedure of drivers applying for medical exemption certificates namely that a Doctor's note/letter must be supported by a specialist consultant's report.