
TITLE: PUBLICATION OF INFORMATION AFTER SUB-COMMITTEE HEARINGS

Committee: Licensing Committee.

Date: 9 October 2013

Author: Elizabeth Bailey, Principal EHO (Commercial)

[N120]

1.0 ISSUE

1.1 To consider the extent of information that can be published openly and notified as a result of a Licensing Sub-Committee hearing.

2.0 RECOMMENDATION(S)

2.1 That Applicant/Licensee names and Hearing details not be openly published after attendance at a Licensing Sub-Committee hearing.

3.0 BACKGROUND/OPTIONS

3.1 Further to the Licensing Committee meeting on 17 April 2013, where Members approved for Licensing Sub-Committee hearings to remain exempt, it was requested that officers investigate whether details such as the licensee/ applicant name and hearing details can be published openly after exempt hearings.

3.2 Licensing Sub-Committee hearings are typically held to consider new applications or existing licences for joint hackney carriage/ private hire drivers, where for example, criminal convictions have been disclosed or have occurred during the licence period; where there have been continued breaches of licence conditions, or other matters which require determination of the licensees 'fit and proper' status. Such hearings can result in the refusal, suspension or revocation of an application or licence.

3.3 Information heard during the hearing is classed as exempt information under the provisions contained within the Local Government Act 1972 Schedule 12A Part 2, Paragraph 10, and as such the hearing is closed.

3.4 Where a licence is revoked or suspended by a Licensing Sub-Committee, the decision is sent in writing to the licence holder. Where the licence holder disagrees with the decision they have the right to appeal to the Magistrate's Court, waiving their right to anonymity.

3.5 The period of appeal to the Magistrates Court on suspension or revocation of a licence is 21 days. The driver is still permitted to drive until an appeal is

lodged. However, after the 21 day appeal period if an appeal has not been made, then licence becomes suspended.

- 3.6 On revocation or suspension of a drivers licence, the licensee is required under condition 13 of the Hackney Carriage and Private Hire Drivers Licence to return their driver badge, A5 dash board photographic identification card and A4 photographic identification card to the Council. Without these documents and identification, the driver is not allowed to drive. It is an offence for anyone to drive a Hackney Carriage and Private Hire Vehicle whilst suspended or without a licence.
- 3.7 Failure on the part of the driver to produce the A4 identification prior to driving would be picked up by the Private Hire Operator. The driver would also be required to be in receipt of a driver identification badge and lanyard or the A5 dash board identification, which is to be placed inside the vehicle whilst being driven. The absence of one or more of these pieces of identification should raise questions with the Company as to the validity of the driver, and the licensed status of the driver could also be confirmed with the Council.
- 3.8 To confirm licensed status, the Council holds a public register of all current licensed drivers. This register provides confirmation and an additional way of checking those drivers that are currently licensed. The public register is available on line on the Council Website, in addition to contact being made with the Licensing Team to enquire and confirm as to whether a person holds a current licence.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 Licensing Sub-Committee Hearings remain as exempt information under the provisions contained within the Local Government Act 1972 Schedule 12A Part 2, Paragraph 10. This extends to the publishing of information in relation to the hearing.
- 4.2 Schedule 12A of the Local Government Act 1972 states that such exempt information 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.' Whilst in effect the opportunity exists for information to be made public, any individual request would need to be considered on a case by case basis in line with section 10 of Schedule 12A of the Local Government Act 1972.
- 4.3 The public register is available to confirm whether a person holds a joint hackney carriage and private hire licence; or alternatively for persons to contact the Council.
- 4.4 It is an offence to drive a vehicle when unlicensed or during period of suspension.

4.5 Drivers and Operators are required to hand over/ retain the A4 photographic identification document whilst a driver is driving for the Operator.

4.6 The handing in of the driver badge, A5 and A4 photographic documents to the Council serves as a 'control' on suspension and revocation of a licence.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 There are no financial implications in terms of the recommendations. The Council could be challenged on publishing driver names and results of Licensing Sub-Committee hearings. There could be an allegation of maladministration or a Judicial Review by the Ombudsman and/or a complaint made to the Information Commissioner's Office (ICO) where personal information is disclosed when it should not be. Breaches of data protection can result in a fine of up to £500,000

5.2 Equality Impact Assessment (INRA) completed which shows that by keeping Applicant and licensee names and Licensing Sub-Committee hearing outcomes exempt, it does not adversely impact on new and existing licensees as the Council's Service users.

6.0 APPENDICES

6.1 Appendix 1 Impact and Needs/Requirements Assessment (INRA) – Initial Screening

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Local Government Act 1972, Schedule 12A	Room SF209 The Grange Ely	Mrs E A Bailey Principal EHO (commercial) (01353) 665555 E-mail: Elizabeth.bailey@eastcambs.gov.uk
Taxi and Private Hire Guide, ECDC July 2013		

Impact and Needs/Requirements Assessment (INRA)

Initial Screening

Initial screening needs to take place for all new/revised Council policies. 'Policy' needs to be understood broadly to include all Council policies, strategies, services, functions, activities and decisions. This stage must be completed at the earliest opportunity to determine whether it is necessary to undertake an INRA for this activity.

Name of Policy:	Publication of information after sub committee hearing
Lead Officer (responsible for assessment):	Mrs E A Bailey
Department:	Environmental Services
Others Involved in the Assessment (i.e. peer review, external challenge):	Head of Environmental Services
Date Initial Screening Completed:	September 2013

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

The purpose of the policy is to keep information relating to an individual exempt in line with the Local Government Act 1972, as a result of a licensing sub committee hearing.

- (b) **Who are its main beneficiaries?** i.e. who will be affected by the policy?

New applicants and existing licensees, licensed operators, vehicle proprietors.

- (c) **Is this assessment informed by any information or background data?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

Local Government Act 1972
Data Protection Act 1998

(d) Does this policy have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of (please tick all that apply):

Ethnicity
Gender
Disability

X
X
X

Age
Religion and Belief
Sexual Orientation

X
X
X

Please explain any impact identified (positive, negative or neutral): i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

By publishing the names and outcomes of Sub-Committee Hearings for new and existing Applicants in the open there is the risk of breaching data protection legislation where personal information about an individual could be released. This could result in judicial review by the Ombudsman and/or a complaint to the Information Commissioner.

(e) Does the policy affect service users or the wider community?

NO

(f) Does the policy have a significant effect on how services are delivered?

NO

(g) Will it have a significant effect on how other organisations operate?

NO

(h) Does it involve a significant commitment of resources?

NO

(i) Does it relate to an area where there are known inequalities, e.g. disabled people's access to public transport etc?

NO

If you have answered **YES** to any of the questions above, then it is necessary to proceed with a full equality impact assessment. If the answer is **NO**, then this judgement and your response to the above questions will need to be countersigned by your Head of Service and then referred to the Council's Equal Opportunities Working Group (EOWG) for scrutiny and verification. Please forward completed and signed forms to Nicole Pema, Principal HR Officer.

Signatures:

Completing Officer:	E Bailey	Date:	September 2013
Head of Service:	Liz Knox	Date:	20.9.13