

25th May 2016

CABINET – 6TH JUNE 2016

A meeting of Cabinet will be held at 5.30 pm on Monday 6th June 2016 in the Council Chamber, Town Hall, Rugby.

Adam Norburn
Executive Director

A G E N D A

PART 1 – PUBLIC BUSINESS

1. Minutes.

To confirm the minutes of the meeting held on 4th April 2016.

2. Apologies.

To receive apologies for absence from the meeting.

3. Declarations of Interest.

To receive declarations of –

(a) non-pecuniary interests as defined by the Council's Code of Conduct for Councillors;

(b) pecuniary interests as defined by the Council's Code of Conduct for Councillors; and

(c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.

Note: Members are reminded that they should declare the existence and nature of their interests at the commencement of the meeting (or as soon as the interest becomes apparent). If that interest is a prejudicial interest, the Member must withdraw from the room unless one of the exceptions applies.

Membership of Warwickshire County Council or any Parish Council is classed as a non-pecuniary interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.

Question Time.

Notice of questions from the public should be delivered in writing, by fax or e-mail to the Executive Director at least three clear working days prior to the meeting (no later than Tuesday 31st May 2016).

Growth and Investment Portfolio

Nothing to report to this meeting.

Corporate Resources Portfolio

4. Appointments to Working Parties 2016/17.

Communities and Homes Portfolio

5. Approval of Community Grants 2016/17.

Environment and Public Realm Portfolio

Nothing to report to this meeting.

The following item contains reports which are to be considered en bloc subject to any Portfolio Holder requesting discussion of an individual report

6. Licensing Policy for Hackney Carriages and Private Hire Vehicles.
7. Motion to Exclude the Public under Section 100(A)(4) of the Local Government Act 1972

To consider passing the following resolution:

“under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of information defined in paragraphs 1 and 3 of Schedule 12A of the Act.”

PART 2 – EXEMPT INFORMATION

Growth and Investment Portfolio

Nothing to report to this meeting.

Corporate Resources Portfolio

1. Restructure of Democratic and Scrutiny Services team.

Communities and Homes Portfolio

Nothing to report to this meeting.

Environment and Public Realm Portfolio

Nothing to report to this meeting.

The following item contains reports which are to be considered en bloc subject to any Portfolio Holder requesting discussion of an individual report

2. Exemption to Contract Standing Orders for the procurement of advice regarding masterplanning of Strategic Allocation proposals in the emerging Local Plan.

Any additional papers for this meeting can be accessed via the website.

The Reports of Officers (Ref. CAB 2016/17 – 1) are attached.

Membership of Cabinet:

Councillors Stokes (Chairman), Leigh Hunt, Mrs Parker, Ms Robbins and Mrs Timms.

CALL- IN PROCEDURES

Publication of the decisions made at this meeting will normally be within three working days of the decision. Each decision will come into force at the expiry of five working days after its publication. This does not apply to decisions made to take immediate effect. Call-in procedures are set out in detail in Standing Order 15 of Part 3c of the Constitution.

If you have any general queries with regard to this agenda please contact Claire Waleczek, Senior Democratic Services Officer (01788 533524 or e-mail claire.waleczek@rugby.gov.uk). Any specific queries concerning reports should be directed to the listed contact officer.

If you wish to attend the meeting and have any special requirements for access please contact the Democratic Services Officer named above.

AGENDA MANAGEMENT SHEET

Name of Meeting	Cabinet
Date of Meeting	6 th June 2016
Report Title	Appointment of Working Parties 2016/17
Portfolio	Corporate Resources
Ward Relevance	N/A
Prior Consultation	None
Contact Officer	Claire Waleczek, Senior Democratic Services Officer, Tel: 01788 533524
Report Subject to Call-in	Yes
Report En-Bloc	No
Forward Plan	Yes
Corporate Priorities	This report does not specifically relate to any Council priorities, but should be considered by Cabinet in order that current members have been appointed to relevant Working Parties for the ensuing municipal year.
Statutory/Policy Background	
Summary	Cabinet is requested to consider which Working Parties be re-constituted for 2016/17 and appoint the membership of each group.
Risk Management Implications	There are no risk management implications arising from this report.
Financial Implications	There are no financial implications arising from this report.

<i>Environmental Implications</i>	There are no environmental implications arising from this report.
<i>Legal Implications</i>	There are no legal implications arising from this report.
<i>Equality and Diversity</i>	No new or existing policy or procedure has been recommended.
<i>Options</i>	N/A
<i>Recommendation</i>	The list of Working Parties be considered and the membership of each Working Party be established for the 2016/17 municipal year.
<i>Reasons for Recommendation</i>	Cabinet needs to decide which Working Parties are required to carry out business in 2016/17.

Cabinet – 6th June 2016

Appointment of Working Parties 2016/7

Report of the Corporate Resources Portfolio Holder

Recommendation

The list of Working Parties be considered and the membership of each Working Party be established for the 2016/17 municipal year.

Cabinet is requested to consider which Working Parties be re-constituted for 2016/17 and appoint the Membership of each group.

The Membership of the Working Parties for 2015/16 are set out below:

Gypsies and Travellers Strategy and Action Plan Group

Councillors Keeling, Mrs O'Rourke, Mrs Timms (lead Portfolio Holder), Gillias and Pacey-Day and Leigh Hunt and Mrs Parker (Portfolio Holders) plus Mr S White (co-optee – Warwickshire Association of Local Councils).

Grants Working Party

Councillors Mrs Bragg, Buckley, Dodd, Mrs Garcia, Leigh Hunt, Mahoney, Mrs Roodhouse, Shera, Mrs Simpson-Vince and Helen Taylor.

Planning Services Working Party

Councillors Mrs Bragg, Butlin, Ms Edwards, Mahoney, Ms Robbins, Sandison and Leigh Hunt and Mrs Timms (Portfolio Holders).

Health and Safety Members' Working Party

Councillors Mrs Bragg, Lewis and Mahoney.

Constitution Review Working Party

Councillors Lewis, Mahoney and Helen Taylor.

Materials Reclamation Facility Working Party

Councillors Mrs Avis, Cade, Mrs Parker, Sandison.

Name of Meeting: Cabinet
Date Of Meeting: 6th June 2016
Subject Matter: Appointment of Working Parties 2016/17
Originating Department: Corporate Resources

LIST OF BACKGROUND PAPERS

There are no background papers relating to this item.

AGENDA MANAGEMENT SHEET

<i>Name of Meeting</i>	Cabinet
<i>Date of Meeting</i>	6 June 2016
<i>Report Title</i>	Approval of Community Grants 2016/17
<i>Portfolio</i>	Communities and Homes
<i>Ward Relevance</i>	All
<i>Prior Consultation</i>	Meetings of: <ul style="list-style-type: none">• Cabinet (16 November 2015 and 11 January 2016)• Grants Working Party (12 May 2016 and 16 May 2016) <p>Member conversation (opened to include parish council representatives too) on 3 February 2016.</p> <p>Discussions with Rugby CAVA</p>
<i>Contact Officer</i>	Michelle Dickson, Housing & Community Development Team Leader Tel: 01788 533843
<i>Report Subject to Call-in</i>	No
<i>Report En-Bloc</i>	No
<i>Forward Plan</i>	Yes
<i>Corporate Priorities</i>	This report relates to the following priority(ies): <ul style="list-style-type: none">• PEOPLE - Support wider participation in decision making and help communities to deliver services.• PEOPLE - Provide leisure facilities and support independent and healthy living.

Statutory/Policy Background

In February 2016, Council agreed the allocation of funding to support the local voluntary and community sector in 2016/17;

Service level agreements (agreed by Cabinet on 16 November 2015) :

Age UK	£17,000
Rugby Citizens Advice Bureau	£55,000
Warwickshire CAVA	£33,000
Rugby Credit Union	£15,000
Rugby Foodbank	£2,500
Brownsover Community Asscn	£7,500
Overslade Community Asscn	£7,500
New Bilton Community Asscn	£7,500
Newbold Community Asscn	£7,500
Benn Partnership Centre	£7,500
Total:	£160,000

Grants (agreed by Cabinet on 11 January 2016):

Community and voluntary organisations	£20,410
Rural development fund (revenue)	£25,000
Sports	£6,000
Play	£6,000
Arts	£6,000
Total:	£63,410

In addition to these amounts, Public Health Warwickshire has allocated £10,000 for a Health and Wellbeing grant, which the Council will administer on their behalf as part of the grants administration process.

Summary

The Grants Working Party has made recommendations for the award of grants in 2016/17. Details of the bids and recommendations of the Grants Working Party are attached as appendices 1 to 6.

All of the bids were assessed using the agreed eligibility criteria.

Risk Management Implications

Eligibility criteria have been established to ensure that the grants are spent appropriately.

- In order to access their funding, successful applicants will be required to sign a grant acceptance form that confirms that the grant will be spent in line with the project and eligibility criteria.
- Any grant or part of a grant not fully utilised by the applicant must be returned to the council.

Financial Implications

These are one-off grants so there are no further financial implications beyond 2016/17.

Environmental Implications

None identified

Legal Implications

None identified

Equality and Diversity

The grants are aimed at supporting a variety of projects across the borough.

Options

1. to agree the recommendations of the Grants Working Party for the 2016-17 grants programme.
2. to reject the recommendations made by the Grants Working Party for the 2016-17 grants programme.

Recommendation

The recommendations made by the Grants Working Party to allocate the funding for the 2016-17 community grants be approved.

Reasons for Recommendation

The Grants Working Party met on 12 May 2016 and 16 May 2016 and has made its recommendations for the allocation of grants for 2016/17 based on the agreed eligibility criteria.

Cabinet – 6 June 2016

Approval of Community Grants 2016/17

Report of the Communities and Homes Portfolio Holder

Recommendation

The recommendations made by the Grants Working Party to allocate the funding for the 2016/17 community grants be approved.

1.0 BACKGROUND

The following allocations (see table 1), of ‘one off’ grant funding for 2016/17 to fund community and voluntary organisations, sports clubs and bodies, youth clubs and associations, arts organisations and artists were approved by Cabinet on 11 January 2016, subject to further consideration and budget availability.

Table 1:

Grant Fund	one-off grants allocations for 2016/17	Detail
Grants to Voluntary and Community Organisations	*£20,410	One-off revenue grants up to £1,500
Rural Development Fund	£25,000	One-off revenue grants up to £10,000 – rural area only
Capital Partnership Fund	**£0	One-off capital grants up to £10,000 – urban area only
Parish Capital Spending Fund	**£0	One-off capital grants up to £50,000 – rural areas only. Open to parish councils only (although they can apply on behalf of organisations such as village hall trusts)
Sports Grant	£6,000	One-off revenue grants up to £1,000
Youth and Play Grant	£6,000	One-off revenue grants up to £1,000
Arts Grant	£6,000	One-off revenue grants up to £1,000
Total	£63,410	
Public Health Grant	***£10,000	One-off revenue grants up to £2,500
Total	£73,410	

* This includes the £11,500 Service Level Agreement funding previously allocated to Relate Rugby & North Warwickshire.

** The Capital Partnership Fund and the Parish Capital Spending Fund were placed on hold during 2012/13 following the introduction of Phase 1 of the superfast broadband project which is scheduled to finish during 2015/16. Cabinet (20th October 2014) has agreed a further contribution of £246,545 to the next phase of this project from 2015/16 onwards to be met from the reallocation of Capital Partnership Fund and Parish Capital spending Fund as was the case in Phase 1.

*** this is public health funding which is administered by the council on their behalf.

2.0 HEALTH AND WELL-BEING GRANT (PUBLIC HEALTH WARWICKSHIRE)

The Health and Wellbeing Community Fund provides an opportunity for voluntary and community organisations to obtain up to £2,500, towards the cost of new projects/programmes within Rugby Borough. The total budget allocation for 2016/17 is £10,000. Projects must demonstrate how they contribute towards improved health and well-being for Rugby residents, and meet at least two of the following outcomes:

- Eating more healthily (measured through the number of portions of fruit and vegetables consumed per day)
- Improving mental health and wellbeing
- Lessening feelings of loneliness and isolation
- Increasing levels of physical activity

This budget is administered by the council on Public Health's behalf.

3.0 APPLICATION PROCESS

The application process for these grants opened just after budget setting in February 2016, with applications invited via:

- a notice in the local press
- promotion on the council's website
- CAVA's e-newsletter
- presentation to Parish Council representatives on 3 February 2016
- the CAVA Funders' Fair held on 8 March 2016
- CAVA training event for community organisations held on 3 March 2016

The closing date for applications was 11 April 2016.

4.0 CONCLUSION

The Grants Working Party met on 12 and 16 May 2016 to discuss the grants (including the allocation by Public Health Warwickshire) and to make their recommendations for the consideration of Cabinet. These recommendations are attached as appendices 1-6.

Name of Meeting: Cabinet

Date Of Meeting: 6 June 2016

Subject Matter: Approval of grants 2016/17 (grants to voluntary and community organisations, rural development fund, sports, youth and play and arts and health and wellbeing)

Originating Service: Housing

LIST OF BACKGROUND PAPERS

Document No.	Date	Description of Document	Officer's Reference	File Reference
1-6		Recommendations of GWP		
7-12		Grant eligibility criteria for each funding pot		

* The background papers relating to reports on planning applications and which are open to public inspection under Section 100D of the Local Government Act 1972, consist of the planning applications, referred to in the reports, and all written responses to consultations made by the Local Planning Authority, in connection with those applications.

* Exempt information is contained in the following documents:

Document No.	Relevant Paragraph of Schedule 12A
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* There are no background papers relating to this item.

(*Delete if not applicable)

1. GRANTS TO VOLUNTARY AND COMMUNITY ORGANISATIONS – APPLICATIONS 2016/17

The working party agreed to award grants as shown in the table below:

Voluntary and Community Organisations Fund – Applications 2016/17		
	Amount Available	£20,410.00
Applicant	Amount of Application	Amount Awarded at GWP
22 Scout Group	£407.07	NIL
Benn's Friends	£1,430.00	£1,430.00
Binley Woods Village Hall	£910.00	£910.00
Grandborough Village Hall	£1,200.00	£1,200.00
Health and Education Alliance LTD	£1,250.00	NIL
Henry Hinde Infant School	£1,500.00	NIL
Hoskyn Community Centre	£1,482.00	NIL
National Childbirth Trust	£1,500.00	NIL
Newbold On Avon RFC	£1,500.00	£1,500.00
RoSA	£1,500.00	NIL
Rugby Sea Cadets	£1,437.00	£1,437.00
Rugby Shakha	£1,500.00	NIL
Rugby United Reformed Church	£1,500.00	£1,500.00
Ryton Conservation Trust	£887.00	NIL
Sikh Social and Welfare Association	£1,500.00	£1,500.00
St John Ambulance	£262.80	£262.80
St Peter and St John's Church	£970.00	NIL
The Chapel, Newbold Methodist Church	£1,500.00	£1,500.00
The New Bilton Community Association	£1,500.00	£1,400.00
The Sunflower Community Radio Association/Cross Counties Radio	£750.00	NIL
Total	£24,485.87	£12,639.80
Amount Available	£20,410.00	£20,410.00
Balance	-£4,075.87	*£7,770.20

*The working party agreed that the underspend of £7,770.20 be transferred from the Voluntary and Community Organisations Fund to the Rural Development Fund.

2. RURAL DEVELOPMENT FUND – APPLICATIONS 2016/17

The working party agreed to award grants as shown in the table below:

Rural Development Fund – Applications 2016/17		
	Amount Available	£25,000.00 + £7,770.20
Applicant	Amount of Application	Amount Awarded at GWP
Coventry Cathedral	£10,000.00	NIL
Dunchurch and Thurlaston Women's Institution	£7,500.00	£7,500.00
Easenhall Village Community	£1,000.00	NIL
Frankton Parish Council	£845.00	£845.00
Marton War Memorial Hall	£3,000.00	£3,000.00
Monks Kirby Parish Council	£3,150.53	£3,150.53
St Edith's Church PCC	£10,000.00	NIL
Withybrook Village Hall Committee	£9,900.00	NIL
Wolfhampcote Parish Council	£1,000.00	£1,000.00
Wolston and Coventry Scouts	£10,000.00	£10,000.00
Total	£56,395.53	£25,495.53
Amount Available	£32,770.20	£32,770.20
Balance	-£23,625.33	*£7,274.67

*The working party agreed that the underspend of £7,274.67 be transferred from the Rural Development Fund to the Arts/Sports/Youth and Play/Health and Wellbeing funds allocated at the next meeting of the working party on Monday 16 May.

3. ARTS GRANTS – APPLICATIONS 2016/17

The working party agreed to award grants as shown in the table below:

Arts Grants – Applications 2016/17		
	Amount Available	£6,000.00 + *£7,274.67
Applicant	Amount of Application	Amount Awarded at GWP
Amber Francesca	£1,000.00	NIL
Amber Merrick-Potter	£1,000.00	NIL
Benn Partnership Centre	£1,000.00	£1,000.00
Deborah Dutton – E and D Art	£1,000.00	£1,000.00
Entrust Care Partnership	£1,000.00	£1,000.00
Felicity Rose Barrow	£1,000.00	NIL
Flo Bannigan	£950.00	NIL
Office for Art, Design and Technology	£900.00	NIL
Project Nirvana (WCAVA)	£1,000.00	£1,000.00
Rugby Theatre	£1,000.00	NIL
Spitfire Theatre Company	£1,000.00	£1,000.00
Total	£10,850.00	£5,000.00
Amount Available	£13,274.67	£13,274.67
Balance	£2,424.67	**£8,274.67

*The working party agreed that the accumulated underspend of £7,274.67 be carried over from the Rural Development Fund to the Arts/Sports/Youth and Play funds.

**The working party agreed that the accumulated underspend of £8,274.67 be transferred from the Arts Grants to the Sports Grants.

4. SPORTS GRANTS – APPLICATIONS 2016/17

The working party agreed to award grants as shown in the table below:

Sports Grants – Applications 2016/17		
	Amount Available	£6,000.00 + £8,274.67
Applicant	Amount of Application	Amount Awarded at GWP
22nd Hillmorton Rugby Scout Group	£1,000.00	NIL
Bilton Ajax Junior Football Club	£1,000.00	NIL
BSAC Rugby Divers	£1,000.00	£1,000.00
Draycote Water Sailing Club	£1,000.00	NIL
Newbold Cricket Club	£1,000.00	NIL
Newbold on Avon RFC	£1,000.00	£1,000.00
Old Laurentian RFC	£553.00	NIL
Rugby and Northampton AC	£1,000.00	£1,000.00
Rugby St. Andrews RFC Mini's and Junior Section	£900.00	£900.00
Rugby Town Junior Football Club	£1,000.00	£1,000.00
Rugby Trampolining Club	£997.00	£997.00
Total	£10,450.00	£5,897.00
Amount Available	£14,274.67	£14,274.67
Balance	£3,824.67	*£8,377.67

*The working party agreed that the accumulated underspend of £8,377.67 be transferred from the Sports Grants to the Youth and Play Grants.

5. YOUTH AND PLAY GRANTS – APPLICATIONS 2016/17

The working party agreed to award grants as shown in the table below:

Youth and Play Grants – Applications 2016/17		
	Amount Available	£6,000.00 + £8,377.67
Applicant	Amount of Application	Amount Awarded at GWP
22nd (Hillmorton) Rugby Scout Group	£744.99	£744.99
Ansty Parish Council	£750.00	£750.00
Birdingbury Parish Council	£500.00	NIL
Brinklow Parish Council	£833.34	NIL
Grandborough Village Hall Committee	£200.00	NIL
Hill Street Youth and Community Centre	£900.00	NIL
Newbold on Avon RFC	£600.00	NIL
Parents and Friends of St Matthew's Bloxham	£1,000.00	NIL
Rugby Gymnastics Club	£971.88	£971.88
Rugby Outlanders Games Club	£799.00	£799.00
Rugby Primary School Athletics and Cross Country Association	£975.00	NIL
St. Andrew's Church	£1,000.00	£1,000.00
The Bradby Club	£1,000.00	£1,000.00
Wolston Parish Council	£950.00	£950.00
Total	£11,224.21	£6,215.87
Amount Available	£14,377.67	£14,377.67
Balance	£3,153.46	*£8,161.80

*The accumulated underspend is £8,161.80.

The working party agreed that the underspend will be used on any additional projects identified throughout the 2016/17 municipal year.

6. HEALTH AND WELLBEING GRANTS – APPLICATIONS 2016/17

The working party agreed to award grants as shown in the table below:

Health and Wellbeing Grants – Applications 2016/17		
	Amount Available	£10,000.00
Applicant	Amount of Application	Amount Awarded at GWP
Benn Partnership Centre	£1,200.00	£1,200.00
Families First	£2,325.00	NIL
Orchestra of the Swan	£2,500.00	NIL
Rugby Dementia Support Group	£1,782.00	NIL
Rugby Gateway Club (Mencap)	£1,000.00	NIL
Rugby Health Matrix	£2,500.00	£2,500.00
St Peter and St John's Church	£1,000.00	£1,000.00
The Bradby Club	£1,156.00	NIL
The Hummingbird Centre	£2,190.00	£2,190.00
The New Bilton Community Association	£2,500.00	NIL
Warwickshire Race Equality Partnership	£2,470.00	NIL
Total	£20,623.00	£6,890.00
Amount Available	£10,000.00	£10,000.00
Balance	£10,623.00	*£3,110.00

*The working party agreed that the accumulated underspend of £3,110.00 will be used on any additional projects identified throughout the 2016/17 municipal year.

AGENDA MANAGEMENT SHEET

<i>Name of Meeting</i>	Cabinet
<i>Date of Meeting</i>	6 June 2016
<i>Report Title</i>	Licensing Policy for Hackney Carriages and Private Hire Vehicles
<i>Portfolio</i>	Environment and Public Realm
<i>Ward Relevance</i>	All wards
<i>Prior Consultation</i>	Licensing and Safety Committee; Rugby Hackney Operators and Drivers Association; taxi trade
<i>Contact Officer</i>	David Burrows, Regulatory Services Manager (ext 3806).
<i>Report Subject to Call-in</i>	Public
<i>Report En-Bloc</i>	Yes
<i>Forward Plan</i>	Yes
<i>Corporate Priorities</i>	This report relates to the following priority(ies): Enable our residents, visitors and Enterprises to enjoy, achieve and prosper.
<i>Statutory/Policy Background</i>	DVLA Policy on paper driver licences and on licensing EU drivers. Rugby Borough Council Taxi Licensing Policy. Local Government (Miscellaneous Provisions) Act 1976.
<i>Summary</i>	The DVLA abolished the paper counterpart licence in June 2015. EU drivers applying for Dual Driver Licences without having UK driver licences were required to convert their licence to a UK driving licence or register with the DVLA and hold a UK paper counterpart. As the paper counterpart is no longer available there are potential risks to the public if drivers do not hold a UK driving licence

<i>Risk Management Implications</i>	The council is required to only issue licenses to those drivers who are 'fit and proper'. If licensed taxi drivers, who have EU licences, are not required to have UK driver licence, it will be difficult to check if they have any motoring convictions in this country. These are also administered differently by the DVSA and courts, potentially putting passengers at risk.
<i>Financial Implications</i>	There are no financial implications for this report
<i>Environmental Implications</i>	There are no environmental implications for this report
<i>Legal Implications</i>	Road Traffic Act 1988 Section 99A allows drivers holding EU driving licences to drive in the UK without having to exchange their licences for UK licences. The Local Government (Miscellaneous Provisions) Act 1976 section 51 (1)(a) requires private hire drivers to be 'fit and proper' and section 51(2) allows conditions to be applied to the licence. Section 59(1)(a) also requires drivers to be 'fit and proper', but there is no provision for the application of conditions.
<i>Equality and Diversity</i>	Assessment completed. Risk of negative impact on EU drivers.
<i>Options</i>	<ol style="list-style-type: none"> (1) The council revises its Licensing Policy to require EU driving licence holders to be required to convert these to a UK driving licensing before a Dual Driver's Licence can be issued. (2) EU drivers continue to hold their current licence which could mean offences are either not pursued by the police or records held by the DVLA are incomplete or difficult to find. No change is made to the council's Licensing Policy.
<i>Recommendation</i>	Paragraph 6.5.4 of the Licensing Policy for Hackney Carriages and Private Hire Vehicles (April 2009) be amended to require EU driving licence holders to convert their licence to a UK driving licence before a dual driving licence is issued.
<i>Reasons for Recommendation</i>	To ensure EU drivers are treated in compliance with EU legislation while protecting the public.

Cabinet - 6 June 2016

Licensing Policy for Hackney Carriages and Private Hire Vehicles

Report of the Environment and Public Realm Portfolio Holder

Recommendation

Paragraph 6.5.4 of the Licensing Policy for Hackney Carriages and Private Hire Vehicles (April 2009) be amended to require EU driving licence holders to convert their licence to a UK driving licence before a dual driving licence is issued.

1. Background

Rugby Borough Council is a Licensing Authority for Taxi Licensing.

The Driver and Vehicle Licence Agency (DVLA) discontinued the paper counterpart driver licence in early June 2015.

Paper counterpart licences are no longer issued and motoring convictions are no longer entered on them.

The Council's adopted Licensing Policy for Hackney Carriages and Private Hire Vehicles April 2009 section 6.5.4 states:

'Where applicants have recently arrived from other countries, it is expected that their existing driving licence is converted to a UK issue, either by straight transfer, by undertaking an appropriate driving test, or by obtaining a counterpart driving licence.'

Licensing officers use an external company to provide this data via secure web links in an easy to read format, in compliance with DVLA advice in respect of new licence applicants and existing drivers. However, that is only possible if they hold a UK driving licence. Points on a licence, any convictions or disqualifications would also be recorded.

The current Licensing Policy does not require EU licence holders to have a full UK driver licence before a Dual Driver's Licence is issued. That is consistent with other authorities and with EU legislation that requires the removal of unnecessary barriers to EU citizens working in the UK.

The now abolished DVLA paper counterpart allowed drivers to take the DVSA taxi driver test using their EU driver licence. However, the removal of the paper counterpart by the DVLA is causing issues.

EU licence holders can still apply to the DVLA using the same form (form D1), but instead of receiving a paper counterpart they receive a certificate of registration with a reference number that can only be used to take the DVSA taxi test.

Drivers can also apply to exchange their EU driving licence for a UK driving licence once they meet the residency criterion, but there is no obligation to do so. The Road Traffic Act 1988 Section 99A allows drivers holding EU driving licences to drive in the UK without having to exchange their current licences for UK licences. However, the council does have the right and duty to influence that. Local Government (Miscellaneous Provisions) Act 1976 section 51 (1)(a) requires private hire drivers to be 'fit and proper' and section 51(2) allows conditions to be applied to the licence. Section 59(1)(a) also requires drivers to be 'fit and proper', but there is no provision for the application of conditions.

If EU drivers commit offences in the UK the DVLA issue a 'ghost licence' which includes a UK driving licence number and records convictions, but unless licensing authorities or the police are aware of the licence, it can be difficult to trace if not declared.

'Ghost licenses' can be used to accumulate convictions which (if known) can be considered by courts, but if a court does decide to ban an EU driving licence holder in the UK, that ban only applies in the UK.

It is important for passenger safety, that council officers are able to check the motoring convictions of any licensed drivers to establish if they are fit and proper persons to hold a Dual Driver Licence. Officers would also have difficulty if the driver moved address, as only UK driving licences contain drivers' addresses.

Amending the current Licensing Policy to require that applicants with EU driver licences are required to obtain a UK driver licence prior to the issue of a Dual Driver Licence would raise two issues:

- Officers have been advised that EU drivers cannot convert their driving licences to UK ones, with a UK address, once they have passed the DVSA taxi driver test. They simply receive a pass certificate they can show to licensing authorities.
- Before a licence can be transferred they must be UK residents and to meet that criterion they must reside in the UK for at least 185 days.

All EU drivers exchanging their licence for a UK driving licence would have to reside in the UK for at least 185 days, which would limit their ability to work in the UK.

However, there are a number of stages in the process of issuing a Dual Driver's Licence that can take 2-6 months, so requiring drivers to wait a few weeks before they can exchange their licence may be unreasonable. The counter argument is that for those operators and proprietors who employ EU drivers and bring them to the UK to train them, that additional cost could be prohibitive.

2 Equality Impact Assessment

An Equality Impact Assessment has been completed and a copy has been placed in the Members' Room.

3 Options considered and recommended proposal

At its meeting on 15 March 2016 the Licensing and Safety Committee considered a number of options, listed below, regarding EU drivers and Dual Driver's Licences and whether to revise the current Licencing Policy.

1. Retain the current policy.
2. Allow all EU drivers to retain their EU driving licence.
3. Amend the current policy to require all EU licence holders to convert their licence to a UK driving licence before a Dual Driver's Licence is issued.
4. Amend the current policy to require all EU licence holders to convert their licence to a UK driving licence after a Dual Driver's Licence is issued when the 185 days residency requirement has been met.
5. Amend the current policy to require that EU drivers that have met the 185 days residency requirement obtain a UK driving licence, or obtain a UK driving after the 185 days criterion has been met.

The Committee took into account feedback and responses received from Rugby Hackney Operators and Drivers Association (RHODA) and the taxi trade. A copy of the original committee report and appendices has been placed in the Members' Room.

Officers reviewed policies from other local authorities. Many continued with the policy of a UK licence or paper counterpart, or made no reference to requiring a UK licence. However, both Milton Keynes Council and Coventry City Council both require drivers to hold a UK driving licence.

The alternative is that EU drivers continue to hold their licence which could mean offences are either not pursued by the police or records held by DVLA are incomplete or difficult to find.

Licensing and Safety Committee decided its preferred option was option 3 and resolved to recommend to Cabinet that the Licencing Policy be amended accordingly.

Following the Committee meeting, a local proprietor, Mark Bradshaw, who recruits Eastern European drivers, brings them to the UK and trains them, has taken legal advice and raised his concerns with (1) the portfolio holder, (2) the Chair of the Licensing and Safety Committee, (3) Adam Norburn, Executive Director, and (4) Mark Pawsey, M.P. See Appendix 1.

Officers do not agree with the comments about not being able to obtain historical records as they are disclosed in the Certificates of Good Conduct (similar to the UK Disclosure and Barring Service disclosures).

Members of the Licensing and Safety Committee were aware of the 'ghost licence' and its limitations.

In addition, the policy does not challenge a person's right to work. However, not everyone is permitted to hold a dual driver licence. The law requires that they are only issued to a person determined to be 'fit and proper' and the proposed policy is part of that assessment.

Cabinet are also asked to consider if the policy should apply to those who have applied and are having their applications processed, but their dual licences have not been issued. At the time of writing it was anticipated that 2 Eastern European drivers would be recruited and applications made in May 2016 so should be being processed at the time of the Cabinet meeting. The applications would have been made after Committee determined their recommendation. Cabinet may wish to allow these applications, as traditionally policies have not been introduced retrospectively, or it may determine that the policy should apply immediately.

Name of Meeting: Cabinet
Date of Meeting: 6 June 2016
Subject Matter: Licensing Policy for Hackney Carriages and Private Hire Vehicles
Originating Department: Environment and Public Realm

LIST OF BACKGROUND PAPERS

Name of questioner: Mark Bradshaw
Home address: 4 Rothley Drive, Rugby CV21 1TS
Question:

You may be aware that at the recent Licensing Committee meeting, the Committee passed the following resolution:

"RESOLVED THAT – IT BE RECOMMENDED TO CABINET THAT paragraph 6.5.4 of the Licensing Policy for Hackney Carriages and Private Hire Vehicles (April 2009) be amended to require EU driving licence holders to convert their licence to a UK driving licence before a dual driving licence is issued."

Non-UK drivers cannot convert their licence to a UK one until they have lived in the UK for 185 days (6 months), so this proposal effectively bars newly arrived EU drivers from practising their chosen profession for 6 months. I believe this decision is contrary to EU law (amongst other things) and would like to ask Cabinet if they would please re-consider this proposal and/or pass it back to the Licensing Committee for further consideration?

I explain below the reasons for my request. The text is essentially the same as that of an email I sent to Councillor Lawrence and David Burrows prior to the meeting.

"EU Taxi Drivers Policy

Message body

I understand there is a Licensing and Safety Committee meeting on 15 March at which this issue is to be discussed. As you know I have a personal/business interest in the matter as I bring EU drivers to the UK to drive for me. Unfortunately I am unable to attend the Committee meeting on 15th, and, although I understand my right to speak at the meeting would be discretionary, I thought it would be helpful if I explained my experience, being the only proprietor (as far as I am aware) who brings drivers over from other EU countries to train as taxi drivers.

Firstly, I should emphasise that public safety is as important to my business as it is to the Council and I believe I have demonstrated this many times over the years. My entire business relies on being able to recruit safe drivers, and I go to great lengths to try to ensure all my drivers are of the highest standards, indeed my reputation relies on it. When I am approached to take on a new driver, I go through a strict selection and training process:

1. In-depth interview to assess driving attitudes, customer service skills, ability to speak and understand English etc
2. DVLA Licence check (if UK licence holder)
3. Road test to assess driving skills, followed by at least 10 professional driving lessons to prepare the applicant for the DVSA Taxi Test
4. Assistance in learning routes
5. In addition, if a driver is from an EU country, I insist on seeing a certified translation of their full driving record from their home country. This is absolutely essential to me as I insist on a clean licence from all my drivers. The record covers their entire driving career.

6. I also obtain certified translated copies of their full criminal record, as well as the standard UK DBS check.

Whilst making the point very strongly that EU driving licences have absolute legal parity with UK licences, I do understand concerns that people who are used to driving on the opposite side of the road to us might not initially be as safe as UK drivers, although from my own observations I would not say that UK drivers are particularly safe anyway. For this reason, I spend the first few weeks after they arrive in this country taking them around the area, helping them learn the routes, the Highway Code and generally familiarising themselves with our driving standards. They spend half of their time navigating me through the routes and the other half driving them. They also take the professional driving lessons mentioned earlier and I do not allow them to take their DVSA Taxi test until both myself and my professional instructor are satisfied they are up to the required standard. Their own safety and that of others is my prime concern.

I mentioned above that I obtain a copy of their EU driving record. I am told this is only available while they have an EU licence. Once that licence is converted to a UK licence, it is not possible to access prior EU driving records. It would therefore be a devastating blow to my business if I was unable to do this. I shall give you an example of how important it was for me several weeks ago when I was approached by a man wanting to drive for me. His English was excellent, he was polite, likeable and appeared trustworthy. I was inclined to accept him as a driver but when he showed me his EU Driver record, it showed a list of offences so long that he would have been barred from driving in the UK three times over. I declined him as a driver and advised him to seek employment in another field. If he had come to me with a newly converted UK licence, I would not have had access to that information unless he chose to tell me, and I could have taken on an extremely dangerous driver without realising it. To make matters worse, if he had an accident, my insurance cover would be invalid as the insurer relies on full disclosure.

As regards the abolition of the UK counterpart, I have brought EU drivers over to the UK both before and after the abolition. Beforehand, my two drivers sent off a D1 to the DVLA to get a special driver number. Initially it was returned, saying they couldn't have the number as this process was only for those wishing to take the DVSA Taxi Test. I then sent a covering letter with the D1 explaining this was why they wanted it, and the number was duly issued. This was not a standard UK Counterpart, nor was it possible to do a DVLA driver check on it. After the abolition, another EU driver sent in the D1 (with a covering letter) and she received her number shortly afterwards. Again, it was not a standard UK counterpart, but it looked very similar and there was never any suggestion that it served any purpose, other than the issue of a special number for taking the DVSA Taxi Test. I am not an expert on such matters, I merely make the point that the abolition of the counterpart actually changed nothing in this respect, and certainly had very little impact on my practices since I already had the drivers full driving history.

I turn now to the option of making drivers live in the UK for 185 days before issuing them with a licence. There are at least three problems I can see with this:

1. The arrangement I have with regard to my EU drivers is that I pay a finders fee for them to a company called Driver Providers. I then pay for their flights, the licence application, the lessons etc, their rent and living expenses while they are in training. This costs a minimum of £3500 per person, not including my own time and fuel in giving them driving experience. I expect them to take around two months to get their Taxi licence but if they were then forced to wait a further four months before being able to drive, it would render the whole arrangement unworkable.

You may wonder why I go to all this trouble and expense. Perhaps at this point I should explain why I bring EU drivers here. I have been advertising in the local papers and on the government's Jobsearch website for three years now and although nearly two hundred people have expressed an interest, all bar two of them have withdrawn once they learned of the costs and time involved in becoming a taxi driver. In short I cannot find drivers in the UK so in desperation I have gone abroad. I would regard any further restrictions on licensing as a breach of the Council's Corporate Priorities, namely enabling (my) local enterprise to "achieve, enjoy and prosper."

2. I may be wrong, but I wonder if there is an implication here that if someone has lived here for six months, they might become a better driver? In my experience, both as a taxi proprietor and as a landlord, EU citizens arriving here to work usually have no money and no transport. They are unlikely to be able to afford a car and so may not gain any further driving experience during that six month 'waiting' period. I hope, therefore, that this is not one of the motivators for changing the policy.

3. Again, I am not a legal expert but I feel strongly that imposing additional conditions or procedures on EU drivers would be contrary to the law, bearing in mind that EU and UK licences have parity in the eyes of the law. To me, that means that as long as an EU citizen pays all the fees, passes all the tests and provides all the required information then they are as entitled to a taxi licence as a UK citizen. I hope you find this helpful."

This proposed new policy is likely to have such a profound effect on my ability to recruit drivers that I have already taken legal advice from my solicitor, Mr Schiller at Dennings Solicitors, who advises me that if a non-UK licence holder commits a driving offence in the UK, a ghost record is set up for them and any search made at the DVLA (such as the one carried out by Rugby Borough Council) will divulge this. It is my contention therefore that RBC have not only created a solution for a problem that does not exist, but in so doing they have created their own problem, namely a potentially unlawful policy, which is likely to be challenged through the Courts. My request for further consideration by the Licensing Committee thus reflects the need to protect the public purse, avoid unnecessary court proceedings and also avoid any challenge under the Human Rights Act relating to the right to work - please see below extract:

"Article 23.1 of the [Universal Declaration of Human Rights](#) states:^[1]

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

— *Universal Declaration of Human Rights, United Nations General Assembly*

The [International Covenant on Economic, Social and Cultural Rights](#) states in Part III, Article 6:^[2]

(1) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

(2) The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

— *International Covenant on Economic, Social and Cultural Rights, United Nations General Assembly*"

Mark Bradshaw

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Thank you for your co-operation.

Rugby Borough Council