

# TONBRIDGE & MALLING BOROUGH COUNCIL

## LICENSING & APPEALS COMMITTEE

16 September 2014

### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Matters for Recommendation to Council

## 1 ADOPTION OF THE MODEL BYELAWS FOR HACKNEY CARRIAGES

### 1.1 Introduction

- 1.1.1 The purpose of this report is to recommend that the Council passes a resolution to adopt a new single consolidated set of Model Byelaws for Hackney Carriages, produced by the Department of Transport (DfT), to regulate the conduct of hackney carriage drivers.
- 1.1.2 Whilst the Council has power to attach conditions to licences to regulate hackney carriage/ private hire vehicles, and private hire drivers and operators, no equivalent power exists to attach conditions to the licence of a hackney carriage driver. Therefore any regulation of hackney carriage drivers must be secured through byelaws.
- 1.1.3 The existing byelaws (which came into operation in 1971) are based upon a much older version of the model, and it is considered that the latest model set be adopted so as to bring the byelaws in line with changes in legislation and practice..
- 1.1.4 .A copy of the proposed byelaws is attached at **Annex 1**.

### 1.2 Background

- 1.2.1 Section 68 of the Town Police Clauses Act 1847 states that a district council may from time to time make byelaws for all or any of the purposes following.
- For regulating the conduct of the proprietors and drivers of hackney carriages plying within the prescribed distance in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling:
  - For regulating the manner in which the number of each carriage, corresponding with the number of its licence, shall be displayed:
  - For regulating the number of persons to be carried by such hackney carriages, and in what manner such number is to be shown on such carriage, and what number of horses or other animals is to draw the same, and the placing of

check strings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided:

- For fixing the stands for such hackney carriages, and the distance to which they may be compelled to take passengers, not exceeding the prescribed distance:
- For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the prescribed distance, and for securing the due publication of such fares:
- For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

1.2.2 The DfT has produced a set of Model Byelaws as a basis for local authorities to use. Once made the Byelaws must be approved by the Secretary of State before being brought into effect. The DFT have advised that they would expect local authorities to base their byelaws on the model.

1.2.2 The procedure to be applied in the making of the Byelaws is set out in Section 236 of the Local Government Act 1972. In respect of hackney carriages, the proposed draft byelaws must be first submitted to the Department for Transport for provisional approval. Once such approval is given, the Council must then follow the making, sealing and advertising procedure in Section 236 of the 1972 Act and thereafter submit the byelaws for approval.

1.2.3 Once confirmed, the Department of Transport will agree a coming into operation date (standard time is four weeks from confirmation).

### **1.3 Legal Implications**

1.3.1 The Council is empowered to adopt byelaws for the regulation of hackney carriage drivers pursuant to section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875.

### **1.4 Financial and Value for Money Considerations**

1.4.1 None arising from this report.

### **1.5 Risk Assessment**

1.5.1 The only way the Council can effectively control hackney carriage drivers is by adopting byelaws under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875.

### **1.6 Equality Impact Assessment**

1.6.1 See 'Screening for equality impacts' table at end of report

### **1.7 Recommendations**

1.7.1 Members are asked to recommend to Council that

- (a) the Council passes a resolution to adopt model byelaws (as set out at **Annex 1**) for the regulation of Hackney Carriages in accordance section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875;
- (b) the Director of Central Services be authorised to take all necessary steps to apply to the Department for Transport for confirmation;
- (c) the model byelaws shall come into effect from the date on which the byelaws referred to above are confirmed by the Department for Transport and the current byelaws revoked.

Background papers:

contact: Anthony Garnett 6151

None

Adrian Stanfield

Director of Central Services and Monitoring Officer

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*