

Licensing Committee - Hackney Carriage/Private Hire Appeals Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Monday, 13 June 2016 at 18:00**

The Licensing Committee hears and determines licensing applications and appeals under the Local Government (Miscellaneous Provisions) Acts for hackney carriages and private hire vehicles and drivers

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

Audio Recording, Filming, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council, with the exception of Committee members at all meetings of the Planning Committee, Licensing Committee, Licensing Sub-Committee and Governance Committee. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Where permitted, Councillors' use of devices is limited to receiving messages and accessing papers and information via the internet.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

Licensing Committee Procedure relating to Hackney Carriage Licences and Private Hire Vehicle Licences made under the Local Government (Miscellaneous Provisions) Acts

- (1) All questions and statements will be directed through the Chairman.
- (2) The Chairman will make opening remarks which introduce those present and ensuring that all those present understand the procedure.

The Council's case:-

- (3) The Council's representative will begin with their opening remarks and present their case.
- (4) The Council's witnesses (if any) will give evidence in support of the Council's case.
- (5) The Council's representative and/or representative may question the Council's witness again to clarify any points which may have arisen.

Submission from the Applicant:-

- (6) The Applicant and/or representative will begin with their opening remarks and present their case.
- (7) The Applicant's witnesses (if any) will give evidence in support of the

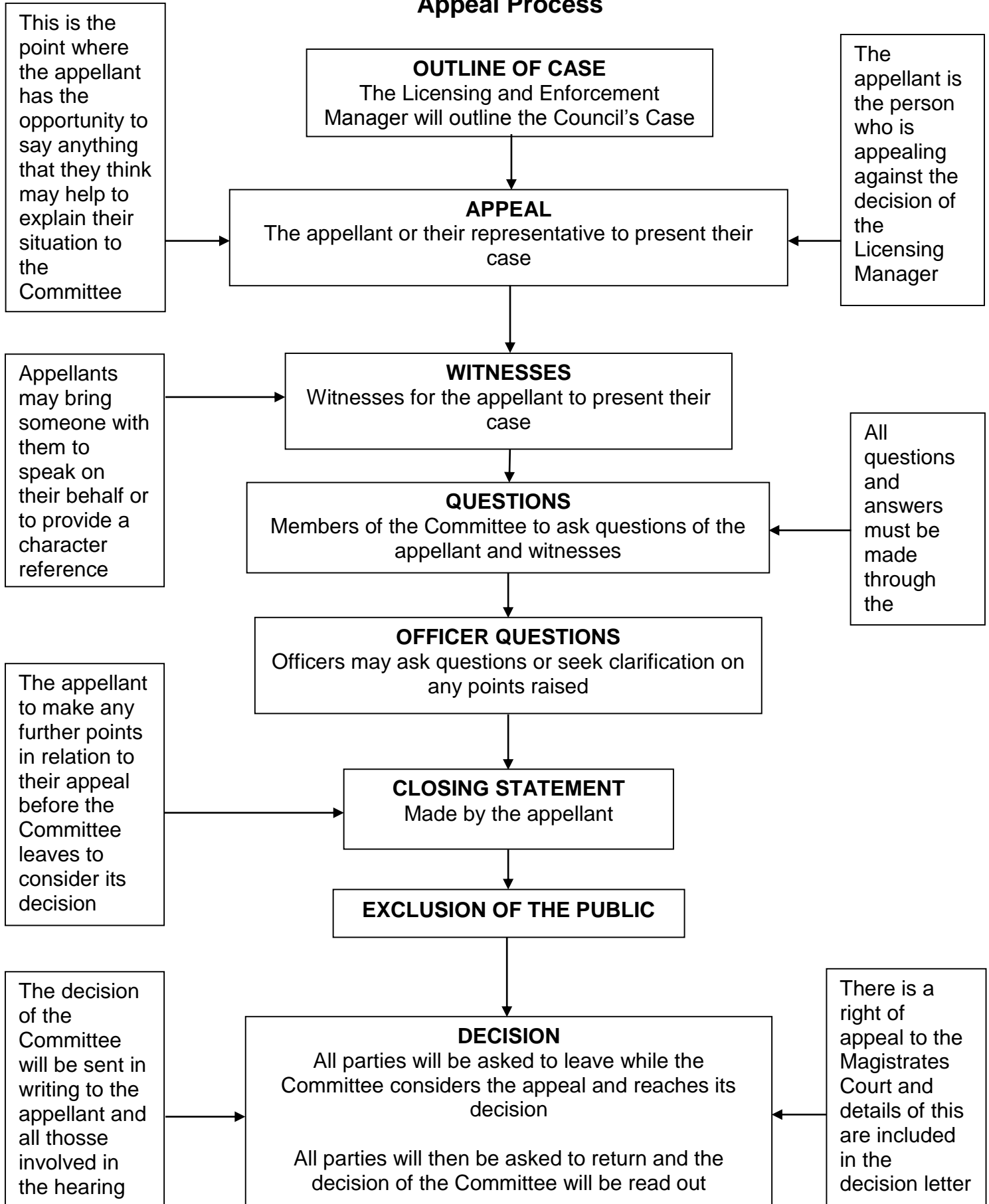
Applicant's case:-

- (8) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.
- (9) Each party and their witnesses may be questioned by the Chairman and members of the Committee.
- (10) Each party may question their witness again to clarify any points which may have arisen.
- (11) If the Applicant or the objectors wish to question each other, questions may be directed through the Chairman.
- (12) Closing Statements may be made by the Council and/or representative.
- (13) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

Determination of the application by the Committee

- (14) The Applicant and/or representative, the objectors, Ward Councillors, the representatives from the Council and the members of the public and the press will leave the room to allow the Committee to determine the application. During this process the Committee members may ask for legal advice from the Legal Advisor.
- (15) The Applicant and/or representative, the objectors, Ward Councillors, the representatives from the Council and the members of the public and the press will be invited to return to the room when the Committee's decision will be announced. Written details of the decision and the grounds upon which it is based will be sent to all parties concerned as soon as possible.

The Hackney Carriage/Private Hire Drivers' Appeal Process



COLCHESTER BOROUGH COUNCIL
Licensing Committee - Hackney Carriage/Private Hire Appeals
Monday, 13 June 2016 at 18:00

Members:

Roger Buston - Member, Nick Cope - Member, Mike Hogg - Member

Substitutes:

All members of the Council who are not Cabinet members or members of this Sub-Committee and who have completed the relevant training.

AGENDA - Part A
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

4 **Minutes**

To confirm as a correct record the minutes of the meetings held on 9 September, 26 November, 15 December 2015 and 6 January, 9 March 2016 and 25 May 2016.

9 September 2015	9 - 10
Item Title	
26 November 2015	11 - 14
Item Title	
9 March 2016	15 - 16
Item Title	
25 May 2016	17 - 18
Item Title	

5 **Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)

15 December 2015

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

6 January 2016

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

6 **Hackney Carriage/Private Hire Appeal**

See report by the Head of Professional Services.

e-mail: licensing.committee@colchester.gov.uk
website: www.colchester.gov.uk

LICENSING COMMITTEE

9 September 2015

Present: - Councillor Mike Lilley (Chairman)
Councillors Roger Buston, Margaret Fairley-Crowe,
Ray Gamble, Dave Harris, Pauline Hazell, Darius Laws,
Richard Martin

10. Have Your Say

Mr Hamilton addresses the Committee in relation to Mingles, which he regarded as an unlicensed sexual entertainment venue. He gave details of his protest at the premises and the responses he had had from the owners and patrons. Sally Harrington, Planning and Licensing Service Manager responded to the points made and explained that the premises did not require a licence as a sex entertainment venue as the activities that took place at the premises were not licensable. The premises had been through the planning process and had the appropriate permissions. The Licensing Committee could not go beyond its remit and insist on a licence for the premises when there was not licensable activity taking place. Councillor Lilley expressed the Committee's sympathy with Mr Hamilton but reiterated that it could not go beyond its remit in this matter.

11. Minutes

RESOLVED that the minutes of the meetings held on 27 May, 10 and 12 June and 12 August be confirmed as a correct record.

12. Purple Flag Presentation

The Enterprise & Tourism Development Manager, Karen Turnbull gave a presentation to the Committee on the Purple Flag initiative and giving details on the Colchester evening and night-time economy study 2015.

The Committee discussed the work of a wide variety of agencies seeking to improve the night-time economy and in particular that of the Street Pastors and the SOS bus whose work was crucial in supporting patrons of the various bars and clubs in the town. There was discussion around the public's perception of the town at night and the reality which indicated that there had been a reduction in crime and that the town was providing an increasingly mixed offer designed to appeal to a broader age group. A significant element of the work going forward would be to publicise this and change people's perception of the night-time economy. Consideration was being given to the establishment of a forum to which all venues operating in the town would be invited. One of the concerns that had frequently been voiced in relation to pub watch was its relevance to other establishments such as theatres and restaurants. It was hoped that by broadening the base of the group more operators would be encouraged to attend and this in turn would assist in promoting the town.

13. Licensing Enforcement Policy

The Committee considered a report by the Head of Professional Services on the draft Enforcement Policy for Licensing, Gambling and Sex Establishments. Enforcement was an essential part of the Council's licensing function and to ensure that it was carried out in a transparent and consistent manner it was considered appropriate and necessary to have in place an enforcement policy. The new enforcement policy together with the Council's Statement of Licensing Policy would provide potential applicants and licence holders with clear guidance on the operation and enforcement of licensed premises.

RESOLVED that the proposed Licensing Enforcement Policy be approved.

LICENSING COMMITTEE

26 November 2015

Present: - Councillor Mike Lilley (Chairman)
Councillors Roger Buston, Nick Cope, Margaret Fairley-Crowe, Ray Gamble, Dave Harris, Mike Hogg, Darius Laws, Richard Martin and Philip Oxford

20. Minutes

The minutes of the meetings held on 23 September and 7 October 2015 were confirmed as a correct record.

21. Street Trading Policy

The Committee considered a report by the Head of Community Services on the proposed new street trading policy and regulations. The policy had been formulated having regard to best practice from other local councils, feedback from traders in a recent review and the Council's existing operational guidance. An email had been received from Mr Zaman asking that the consideration of the matter be deferred to allow further consultation but having considered this point it was determined that the matter should proceed as the approval of the policy and regulations would preclude continued consultation with traders to try to resolve any issues they had.

The review, carried out by Quarterbridge on behalf of the Council, found that street trading contributed to the varied street trading mix in Colchester, offering a low cost and low risk approach to operating a retail business within the town centre. Shoppers appreciated and used the street traders and shop owners welcomed the added attraction that the street traders brought to the area. The key issue to be resolved was the lack of ability to enforce street trading regulations, particularly with regard to the space allocated to stalls and traders using more space than that for which they were licensed.

In carrying out the review existing traders, local businesses, the emergency services, and consumers had been consulted. The draft policy and guidance had been shared with the existing street traders. In general the feedback on the policy and guidance had been positive and some amendments were agreed as a result of the consultation. If approved the policy and guidance would come into effect on 1 January 2016.

RESOLVED that the Street trading Policy and Regulations be adopted for implementation with effect from 1 January 2016.

22. Site Management Agreement

The Licensing, Food Safety Manager presented a report on the adoption of a site management agreement between the Council and the Public Fundraising Regulatory Association (PRFA) to control face to face fundraising, commonly known as chugging, in the town centre.

As a result of the agreement the face to face collection of direct debit details would only be permitted on Mondays, Tuesdays and Wednesdays between 9am and 7pm in the High Street and Culver Street. The number of collectors would be limited to 6 with no more than 4 collectors being permitted on any individual street. A copy of the rule book by which collectors must abide was appended to the report and covered matters such as the three step rule, deliberate obstruction and financial transparency.

RESOLVED that the Site Management Agreement between the Public Fundraising Regulatory Association and the Council be approved for implementation in Colchester.

23. Review of the Statement of Licensing Policy // Results of Consultation

Councillor Hogg (in respect of his position as Chairman, Trustee and licence holder of the Acorn and Oak Tree Centre) declared his non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure 7(5).

The Committee received a report by the Head of Professional Services on the outcome of the consultation exercise undertaken in relation to the statutory review of the Statement of Licensing Policy and on the receipt of Counsel's opinion.

An extensive consultation process had been carried out between 17 August and 31 October 2015 to which 5 responses had been received. The Licensing, Food Safety Manager had met with both the Civic Society and the owners of the Victoria Inn to discuss points they raised and the Licensing Manager's comments on all the points raised together with a copy of the responses were appended to the report. The draft policy had been referred to Philip Kolvin, leading licensing Counsel who had commented that the draft policy was excellent and that no reader of the policy could fail to understand the standards expected. A few small amendments were suggested and some sections re-ordered to improve its clarity; these suggestions had been implemented in the policy appended to the report.

RESOLVED to RECOMMEND that the Statement of Licensing Policy be approved and adopted for implementation with effect from 1 January 2016.

24. Review of the Statement of Licensing Policy // Results of Consultation

The Committee considered a report by the Head of Professional Services on the

outcome of the consultation exercise carried out for the Council's draft Statement of Gambling Policy. The public consultation took place between 8 October and 8 November 2015 and two responses were received which were appended to the report. The review had been a light touch with a fundamental review planned in 2016 which would take into account the new amended guidance which had been issued recently by the Gambling Commission.

RESOLVED to RECOMMEND that the Statement of Gambling Policy be approved and adopted for implementation with effect from 1 January 2016.

LICENSING COMMITTEE

9 March 2016

Present: - Councillor Mike Lilley (Chairman)
Councillors Roger Buston, Nick Cope, Margaret Fairley-Crowe, Ray Gamble, Dave Harris, Mike Hogg, Darius Laws and Richard Martin

28. Hackney Carriage Vehicles // Survey of Unmet Demand

Councillor Lilley (in respect of the fact that he knew Mr Green) declared his non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure 7(5).

The Committee considered a report by the Head of Professional Services and received a presentation by Mr Iain MacDonald of Vector Transport Consultancy on the 2015 Unmet Demand Survey.

The Council currently restricted the number of hackney carriage vehicles that were permitted to be licensed in the Borough to 131. The unmet demand survey, undertaken every three years, was required in order to provide justification for the continued restriction of numbers. The Survey was carried out from 1 to 5 October 2015 in the town centre area and at the station ranks between 8 and 12 October 2015 with the main survey work being undertaken in November 2015. The survey identified that whilst there was no significant unmet demand that necessitated the creation of additional plates, there was a problem in the provision of taxis on Saturday nights.

Mr MacDonald addressed the Committee on the key findings of the report and commented that, in general, the quality of the service provided in Colchester had been found to be good; this was a credit to the drivers and to the Council. Mr MacDonald provided some detail on the waiting time of people queuing on a Saturday night and explained that whilst queues were observed, those in the queue were not waiting a significant length of time, in the region of 5 to 6 minutes. The Council was however keen to address this issue; it wished to enable people to leave the town swiftly at the end of the night to minimize the potential for trouble which could result from individuals remaining in the area for prolonged periods. Mr Green, Secretary of the Hackney Carriage Association, addressed the Committee on this point and confirmed that it had already been the subject of discussion between the Association and the Licensing Manager; the Association was keen to work with the Council to address this matter.

In response to questions from the Committee, Mr MacDonald responded that measures to address peak demand were likely to be more effective than an increase

in the number of taxis which would in itself be problematic because of the extremely limited rank space available. The possibility of increasing space, relocating ranks and enforcing parking restrictions was widely discussed and whilst there was an agreed desire to improve the situation it was acknowledged that the solutions were reliant of the work of other agencies such as the County Council. Any action that could be taken by the Borough Council such as enforcing the Head Street rank should be pursued.

RESOLVED that –

- (i) the Unmet Demand Survey for 2015 be noted.
- (ii) the current limit on the number of hackney carriage vehicle licences of 131 be maintained.
- (iii) officers are requested to look at the issues regarding the ranks and report their findings to a future meeting of the Committee.

LICENSING COMMITTEE

25 MAY 2016

Present: - Councillors Roger Buston, Nick Cope, John Elliott, Dave Harris, Mike Hogg, Darius Laws, Patricia Moore, Philip Oxford and Jessica Scott-Boutell

Substitute member: - Councillor Chris Pearson for Councillor Lee Scordis

1. Appointment of Chairman

RESOLVED that Councillor Cope be appointed Chairman for the ensuing Municipal Year

2. Appointment of Deputy Chairman

RESOLVED that Councillor Harris be appointed Deputy Chairman for the ensuing Municipal Year.

