

12 November 2015

## NOTICE OF MEETING

### ADMINISTRATION COMMITTEE

will meet on

**Monday, 23 November 2015**

beginning at

**6:15 pm**

in

**Eastleigh House, Upper Market Street, Eastleigh, SO50 9YN**

**TO:** Councillor Anne Winstanley (Chair), Councillor Daniel Clarke (Vice-Chair)  
Councillor Keith House Councillor Wayne Irish  
Councillor Godfrey G Olson Councillor Derek R Pretty  
Councillor Roger M Smith Councillor Mrs Maureen A Sollitt  
Councillor Steve Sollitt Councillor Jane Welsh

Staff Contacts: Cheryll Kemsley, Democratic Services Officer Tel: 023 8068 8112;  
Email: [cheryll.kemsley@eastleigh.gov.uk](mailto:cheryll.kemsley@eastleigh.gov.uk)

RICHARD WARD  
Head of Legal and Democratic Services

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Council's website -

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as well as in other formats, including Braille, audio, large print and  
other languages, upon request.

Members of the public are invited to speak on general items at the  
start of the meeting, and on individual agenda items at the time the  
item is discussed. To register please contact the Democratic  
Services Officer above

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sound recording and photography at meetings open to the public.

## AGENDA

1. Public Participation

2. Minutes (Pages 1 - 2)

To consider the Minutes of the meeting held on 29 June 2015.

3. Apologies

4. Declarations of Interest

Members are invited to declare interests in relation to items of business on the agenda. Any interests declared will be recorded in the Minutes.

5. Code of Conduct Complaints - Annual Report (Pages 3 - 6)

6. Deregulation Act 2015 (Pages 7 - 12)

**DATE OF NEXT MEETING**  
**Monday, 1 February 2016 at 6:15 pm**  
**in the Eastleigh House, Upper Market Street,**  
**Eastleigh, SO50 9YN**

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ADMINISTRATION COMMITTEEMonday, 29 June 2015 (6:00 pm – 6:35 pm)PRESENT:

Councillor Winstanley (Chair); Councillors Clarke, Irish, Olson, Pretty, R Smith, Mrs Sollitt, Sollitt and Mrs Welsh

Apologies for absence were received from Councillor House

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RESOLVED ITEMS (SUBJECT TO QUESTIONS ONLY)130. START OF COMMITTEE MEETINGS

A request was made to start meetings of the Administration Committee at the slightly later time of 6.15pm.

**RESOLVED that future meetings of the Administration Committee start at 6.15pm.**

131. MINUTES

**RESOLVED -**

**That the Minutes of the meeting held on 1 June 2015 be confirmed and signed by the Chair as a correct record.**

132. DECLARATIONS OF INTEREST

There were no declarations of interest made.

133. ELECTORAL REVIEW OF HAMPSHIRE - PREPARING A CONSULTATION RESPONSE

The Committee considered the report of the Head of Legal and Democratic Services which advised that the Local Government Boundary Commission for England (LGBCE) had formally commenced an electoral review of Hampshire County Council. This Council had been invited to submit its views on future electoral division boundaries for the County Council as part of the consultation process.

Members raised a number of points and concerns where broader electoral equality was no longer being achieved, for example Eastleigh Central which was now double the size of a two-member Borough ward. Such issues would be addressed in the forthcoming Borough Council ward review, so it was felt that key headlines should be made now with more detailed points being made when specific proposals come from the

Boundary Commission on the County Review, and when this Council's own review commenced.

Key points therefore were:

- Polling districts must be the 'building blocks' as to what comprises a County electoral division.
- Wherever possible, Borough wards should not be split across County electoral divisions so as to maintain consistency and established communities in all electoral arrangements.
- Based on the electorate now, and looking ahead to the 2021 forecasts, Eastleigh should have an eighth County Member. Significant developments in the Borough area warrant this and would enable some anomalies to be addressed eg Hedge End Grange Park and West End is not a distinct community in itself.
- Having three 'two Member' County divisions is confusing and it is suggested that all County divisions should be covered by a single Member.

**RESOLVED that the above points be submitted to the Local Government Boundary Commission as this Council's response to the initial consultation on the boundary review of Hampshire County Council.**

(NOTE: Councillor Olson asked that his vote against the above, with specific reference to seeking an eighth County Member for the Eastleigh Borough area, be recorded in the Minutes.)

## ADMINISTRATION COMMITTEE

23 November 2015

### CODE OF CONDUCT COMPLAINTS – ANNUAL REVIEW

#### Report of the Head of Legal and Democratic Services

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#### Recommendation

**It is recommended that the Administration Committee note the report and make any observations to the Monitoring Officer.**

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#### Summary

In July 2012 the Council adopted a new Code of Conduct and processes for dealing with standards matters as required by the Localism Act 2011. This included delegating the power to investigate complaints that a Member has breached the Code of Conduct to the Monitoring Officer. As part of this delegation it was agreed that the Monitoring Officer report to the Administration Committee annually on complaints received and actions taken. The last report to the Committee was in November 2014, hence the submission of this report.

#### Statutory Powers

Section 28 Localism Act 2011  
Section 9E Local Government Act 2000

#### Introduction

1. The Localism Act 2011 required local authorities to adopt new Codes of Conduct for governing the behaviour of Members and new procedures for dealing with complaints that Members have breached this Code of Conduct. The Council adopted the current Code of Conduct on 26 July 2012 and set out a procedure for dealing with complaints.
2. The investigation of complaints was delegated to the Monitoring Officer, with the ability to refer to a sub-committee of the Administration Committee if appropriate. It was agreed that for monitoring purposes the Monitoring Officer should report annually to the Administration Committee on the complaints received and the action taken.
3. Each parish and town council in the Borough is responsible for adopting its own Code of Conduct but any complaints relating to these codes are reported to the Monitoring Officer at the Borough Council and he is responsible for investigating these complaints.

4. The Council was also required to appoint an Independent Person or Persons, for the Monitoring Officer to be able to contact to get an impartial steer on complaints received and any investigations conducted.

### **2014/15 Overview**

5. The current Member Code of Conduct / ethical framework regime came into effect in July 2012 and since that time the Monitoring Officer and his team have implemented the changes required by the Localism Act. Newly elected Members were trained on the requirements of the Code of Conduct earlier this year as part of a comprehensive induction package. The Monitoring Officer continues to monitor as and when refresher training is required.
6. There has been continued communication with many of the parish/town clerks to provide advice where possible and to collate all registers of interests which Members will recall now need to be displayed on the parish/town council's website and the Borough Council's website.
7. In the last twelve months, just one complaint in total has been received. This related to an exchange on social media between a Borough Councillor and the complainant. After consulting the Independent Person, the Monitoring Officer asked his deputy to speak with the Member concerned and the matter was resolved without the need for a formal investigation.
8. Just prior to last year's report, two complaints were submitted – both of which have now been resolved. One related to a Borough Councillor who was felt, by the complainant, to have misused their office as a councillor. After an exchange of correspondence, the matter was deemed to be a misunderstanding and no further action was taken. The other complaint related to one parish councillor complaining about another's behaviour and comments. Whilst the Monitoring Officer instigated a formal investigation and the Independent Person at the time, Elaine Burnell, met with the subject of the complaint at their request to try and explain the process, the investigating officer met with a number of barriers to try and conclude the report satisfactorily. After several months, a report was made to the parish council concerned recommending that an apology be made and that the council as a whole engage in mediation. The parish council broadly supported the recommendations and the Monitoring Officer's endorsement of them.
9. Since the current regime came into operation in 2012, there have been seven Code of Conduct complaints submitted in total.

### **Independent Persons**

10. Initially, the Lead Independent Person appointed was Mr Dave Bevis, who had been a Member of the former Standards Committee. This provided both stability and continuity during that time of change. As was required by the Localism Act, Mr Bevis could only take up this position for a year. As such, two further Independent Persons were recruited at the same time, Elaine Burnell and Elizabeth Taylor. Ms Burnell took the lead Independent Person role for eighteen months, with Ms Taylor as reserve (in case Ms Burnell was

unable to act in the capacity of Independent Person due to leave, illness, knowing the complainant etc). They agreed to cover eighteen months in each role and therefore swapped as 'lead' and 'reserve' in January 2015. At the end of the next eighteen months, in July 2016, new Independent Member(s) will need to be recruited as both Ms Burnell and Ms Taylor will each have served the maximum four years permissible.

### **Financial Implications**

11. There are no financial implications arising from this report.

### **Risk Assessment**

12. There are no risks associated with this report.

### **Equality and Diversity Implications**

13. There are no equality and diversity implications arising from this report.

### **Conclusion**

14. This report updates Members on Code of Conduct complaints received and responded to in the last twelve months.

RICHARD WARD  
HEAD OF LEGAL & DEMOCRATIC SERVICES

Date: 1 October 2015  
Contact Officer: Jon Brown  
Tel No: 023 8068 8124  
e-mail: jon.brown@eastleigh.gov.uk  
Appendices Attached: None

### **LOCAL GOVERNMENT ACT 1972 - SECTION 100D**

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

None.

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## ADMINISTRATION COMMITTEE

Monday 23 November 2015

DEREGULATION ACT 2015

### Report of the Head of Legal and Democratic Services

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#### Recommendations

It is recommended that:

- (1) **The Committee approve the proposed five year Private Hire Operator fee of £365 detailed in the report with an implementation date of 4 January 2016 and the Committee authorise the Head of Legal and Democratic Services to carry out the necessary consultation procedure;**
  
  - (2) **If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter will come back to the next Administration Committee meeting on 1 February 2016, so that objections can be considered and set a further date, not later than two months after the first specified date on which the proposed five year fee will come into force with or without modification; and**
  
  - (3) **Members note (a) the introduction of a three year driver and five year private hire operator licence resulting from the Deregulation Act 2015; and (b) the new rules in respect of sub-contracting between Private Hire Operators licensed in different authorities.**
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#### Summary

This report is to set the fee for a five year Private Hire Operator licence, and to update members on the changes introduced by s.10 and s.11 of the Deregulation Act, in respect of duration of licences for Private Hire Operator and Private Hire and Hackney Carriage driver licences. .

#### Statutory Powers

Deregulation Act 2015

Local Government (Miscellaneous Provisions) Act 1976

## **Introduction**

1. The purpose of the report is to recommend a new licence fee for a five year Private Hire Operators licence to reflect the change in the duration of a Private Hire Operator licence following the coming into force of the Deregulation Act 2015 on the 1 October 2015.
2. The Deregulation Act 2015 also introduced a number of changes, including three significant revisions to the current taxi licensing regime these are:
  - S.10 has introduced a three year Hackney Carriage and Private Hire vehicle drivers licence unless a shorter period “is appropriate in the circumstances of the case”
  - S.10(3) has introduced a five year Private Hire vehicle Operator licence unless a shorter period “is appropriate in the circumstances of the case”
  - S.11 permits sub-contracting of private hire bookings between Private Hire Operators licenced in different licensing authority areas.

These changes were recently discussed at the Licensed Transport Forum on the 20 October 2015, where Hackney Carriage and Private Hire vehicle representatives were informed that a report was in preparation for a future Administration Committee meeting.

## **Five Year Operator Licence Fees**

3. It is proposed that the Administration Committee approve a Private Hire Operator’s licence fee of £365 for a five year licence. Currently private hire vehicle operator’s licences are only issued for a twelve month period at a cost of £165.
4. The fee of £365 is based on the administrative section of the fee not being included in years two to five of the licence, but does include the costs for compliance checks associated with the sub-contracted work and to ensure compliance with the Private Hire Operator conditions.
5. The proposed fee, if approved by Members, will be subject to public consultation in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 and any representations will be presented back to the Administration Committee prior to implementation.

## **Sub-Contracting**

6. From the 1 October 2015, s.11 of the Deregulation Act removed the restriction of cross bordering and provides that a licensed Private Hire Operator will be able to sub-contract a booking to a licensed Private Hire Operator in another local authority, including London and Scotland.
7. Sub-contracted work must be passed between licensed operators and cannot be passed directly to a driver licensed with a different authority; therefore it will remain illegal for a private hire operator who is licensed in Area A to sub-contract a booking directly to a driver or vehicle licensed in Area B.

8. The private hire operator is required to record the details in his booking records of the Private Hire Operator that the booking was passed onto.
9. The first Private Hire Operator commits an offence if he knows that the second private hire operator is going to use an unlicensed vehicle or driver to fulfil the sub-contracted booking.

### **Proposed Fees for Private Hire Operator**

10. The table below shows the existing fees alongside the proposed new five year fee.

	<b>Existing Fee For 1 year</b>	<b>Proposed 5 Year Fee</b>
PH Operator Licence	£165	£365

### **Three Year Private Hire/Hackney Carriage Driver Licences**

11. The Deregulation Act 2015 has introduced a three year licence for both Hackney Carriage and Private Hire drivers from 1 October 2015. The Council currently offers a three year driver's licence at a fee of £182.00.
12. A licence may be granted for a shorter period where there is a justifiable reason, but this must be looked at on a case by case basis and not be a blanket policy, the Act states **“or for such lesser period, specified in the licence, as the district council thinks appropriate in the circumstances of the case”** examples of these circumstances could be:
  - The drivers three yearly Disclosure and Barring Service (DBS) criminal records check would be out of sync and needs bringing into line with the three year licence
  - The applicant is due to retire
  - their right to work visa will expire
  - The driver is over 65 and having yearly medical checks
  - Financial hardship

The above are examples of what the Council may wish to take into account when a specific request is made by an applicant in respect of the grant of a licence for a Private Hire or Hackney Carriage drivers licence.

## **Legal Implications**

13. The proposed fees will be subject to public consultation in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 including the notice being published in a local newspaper, namely Hampshire Independent giving at least 28 days for representations to be made. Any representations will be presented back to the Administration Committee for consideration prior to implementation on 4 January 2016 or alternatively can be delegated back to the Head of Legal and Democratic Services to consider the objections and set a further date, not later than two months after the first specified date on which the variation will come into force with or without modification.
14. The Council must set the fees for these licences on the basis that it only recovers costs which it is entitled to recover. Case law has established that when the Council makes a surplus in respect of licence fees it should give account for that the next time that the fees are set; and if it incurs a deficit it may also take that into account.

## **Financial Implications**

15. The cost of the consultation for the advertisement costs will be approximately £225 and will be met by existing budgets. There are currently 46 private hire operators licensed by the Council. The five year fee for each operator's licence will mean a small reduction of income of around £4,232 a year due to the reduced administration required which has been reflected in the proposed fees. This loss of income will be contained within the Licensing Budget.

## **Risk Assessment**

If the fee is set too high the Council could be challenged in the Courts.

## **Equality and Diversity Implications**

The Equality Act is not relevant to the decision in this report as the decision does not relate to eliminating discrimination, advancing equality of opportunity, or fostering good relations between different people. An Equality Impact Assessment has not been carried out.

## **Conclusion**

That the Administration Committee approves the Private Hire Operator five year licence fee of £365 outlined in this Report with an implementation date of 4 January 2016, and authorise the Head of Legal and Democratic Services to carry out the necessary public notice procedure.

If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter must come back before the next Administration Committee meeting on the 1 February 2016 to allow for any objections to be considered.

That following the consideration of any objections, the necessary amendments to the policy and conditions is made to the taxi handbook, and that Members note the change in law in respect of sub-contracting for Private Hire Operators.

NICKI MOORHOUSE  
LAWYER (LITIGATION)

Date: 22 October 2015  
Contact Officer: Nicki Moorhouse  
Tel No: 023 8068 8125  
e-mail: nicki.moorhouse@eastleigh.gov.uk  
Appendices Attached: \*0  
\*Report No \*X

#### **LOCAL GOVERNMENT ACT 1972 - SECTION 100D**

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

\* Deregulation Act 2015.

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