

LICENSING BOARD

Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Monday, 20 February 2017

Time: 10.30 a.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for absence
4. Taxi and Private Hire Licensing - Quarter 3 Performance and General Update Report (Pages 1 - 32)
5. Hackney Carriage and Private Hire Licensing Decision Making - Delegation and Oversight (Pages 33 - 44)
6. Hackney Carriage Tariff - Review (Pages 45 - 53)
7. Private Hire Vehicles and Hackney Carriages - Vehicle Licence Fees (Pages 54 - 62)
8. Date and time of next meeting - to be confirmed

Summary Sheet

Council Report

Licensing Board 20th February 2017

Title

Taxi and Private Hire Licensing Quarter 3 Performance and General Update Report

Is this a Key Decision and has it been included on the Forward Plan?

This is not a key decision.

Director Approving Submission of the Report

Karen Hanson – Assistant Director of Community Safety and Street Scene

Report author(s):

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Ward(s) Affected

All wards

Executive Summary

On 26th September 2016, the Advisory Licensing Board received a report that provided an update on the implementation of the Council's Hackney Carriage and Private Hire Licensing Policy.

Since the report in September 2016, the Licensing Service has implemented a Performance Management Framework – this framework includes elements that are related to the implementation of the Policy. The performance against the framework is reported each quarter to the Council's Senior Leadership team and the Licensing Board, this report provides the update for the 3rd Quarter of 2016/17.

In addition to the update on performance, this report also provides details of developments in relation to:

- Update on the audit of drivers against the requirements of the new policy.

- Proposed priorities for the licensing service in 2017/18.
- Enforcement actions undertaken by the licensing service (including current position in relation to Court appeals).
- Service restructure / staffing update.

Recommendations

- That the Advisory Licensing Board note the content of the update report and the progress that has been made regarding the implementation of the Council's Hackney Carriage and Private Hire Licensing Policy.
- That the Licensing Board endorses the priorities for the Licensing Service during the 2017/18 financial year.

List of Appendices Included

- Appendix 1 - Third Quarter Performance against the Licensing Performance Management Framework.
- Appendix 2 - Third Quarter Enforcement data.
- Appendix 3 - Third quarter Licensing Admin Team Data.

Background Papers

- Rotherham MBC Hackney Carriage and Private Hire Licensing Policy
- Rotherham MBC Hackney Carriage and Private Hire Licensing Policy Implementation Scheme
- Report of meeting of Advisory Licensing Board, 26th September 2016

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Not applicable.

Council Approval Required

No.

Exempt from the Press and Public

Not exempt.

Title (main report)

Taxi and Private Hire Licensing Update Report

1. Recommendations

- 1.1 That the Licensing Board notes the content of the update report and the performance of the Licensing Service against the Licensing Performance Management Framework.
- 1.2 That the Licensing Board endorses the priorities for the Licensing Service during the 2017/18 financial year.

2. Background

- 2.1 On 26th September 2016, the Advisory Licensing Board received a report that provided an update on the implementation of the Council's Hackney Carriage and Private Hire Licensing Policy.
- 2.2 Since the report in September 2016, the Licensing Service has implemented a Performance Management Framework – this framework includes elements that are related to the implementation of the Policy. The performance against the framework is reported each quarter to the Council's Senior Leadership team and the Licensing Board, this report provides the update for the 3rd Quarter of 2016/17.
- 2.3 In addition to the update on performance, this report also provides details of developments in relation to:
 - 2.3.1 Update on the audit of drivers against the requirements of the new policy.

Members will recall that following the review of hard copy driver record files, three cases were identified that required further attention / consideration. Further details on these cases are provided in this report.

- 2.3.2 Proposed priorities for the Licensing Service in 2017/18.

Officers from within the Council's Licensing Service have developed a number of key priorities for the service that will be delivered during the 2017/18 financial. This report provides further detail on those priorities and seeks that agreement and endorsement of the Licensing Board in relation to them.

- 2.3.3 Enforcement actions undertaken by the licensing service (including current position in relation to Court appeals).

This report provides a summary of enforcement action that took place between September 2016 and December 2016 (inclusive). It includes details of actions taken by enforcement officers (what

could be considered to be traditional enforcement actions) along with enforcement actions taken by other officers within the licensing service, and the outcomes of case hearing meetings.

2.3.4 Service restructure / staffing update.

There have been a number of staffing related developments in within the Licensing Service – this report provides further detail on these.

3. Key Issues

3.1 Licensing Performance Framework – Third Quarter Results.

3.1.1 The overall judgement outlined in the Louise Casey’s inspection report (February 2015) stated that:

“Inspectors have found that Rotherham has not taken, and does not take, sufficient steps to ensure only fit and proper persons are permitted to hold a taxi licence. As a result, it cannot provide assurances that the public, including vulnerable people, are safe.”

3.1.2 In order to ensure the Council’s Licensing Service is effective, fit for purpose, and has addressed the concerns raised in Louise Casey’s report; it is considered that the following outcomes must be demonstrated:

Outcome 1 All licence holders are “fit and proper” to hold licences.

Outcome 2 Trained decision makers must make high quality, appropriate and timely decisions that protect the public from risk of harm.

Outcome 3 The Licensing Service uses all available statutory powers appropriately, proactively and reactively, to disrupt criminal activity (including CSE and related activity).

Outcome 4 The licensing team must consistently provide high quality, timely processing of licensing applications.

Outcome 5 The Council’s Private Hire and Hackney Carriage Licensing Policy will be effectively implemented.

3.1.3 In order to address each of these outcomes, the Licensing Service has implemented a Performance Management Framework. The framework gives detail on a number of

measures are that will indicate whether the desired outcomes are being met.

- 3.1.4 Full detail on the performance against each of the measures is given in appendix A to this briefing note. Explanatory narrative is provided where there is an element of underperformance against the stated targets.
- 3.1.5 Targets have been set against a total of 16 performance measures, there are an additional four measures that are being monitored but a target has not been set in relation to them. The measures without a target are detailed below, along with explanatory narrative.
- 3.1.6 Of the 16 measures with targets, 8 were off target at the time of measurement – further detail on the reason for underperformance is given in Appendix 1, along with any management action that will / has been taken to address the underperformance.
- 3.1.7 The measures without targets are as follows:

Delivery against individual training and development plan for each individual member of staff (contributing to Outcome 1).

The training and development of staff is routinely monitored by the Principal Officer and Team Manager via monthly 1:1s and the Corporate PDR process. At the time of writing this report, all members of the Licensing Team had been through the PDR process (except where this had not been possible due to long term absence from work).

Data sharing concerns (when apparent) to be escalated by Assistant Director in a timely manner (contributing to Outcome 3).

There have been no data sharing concerns during the period covered by this report.

Documented processes provided to and understood by all staff (contributing to Outcome 4).

The Principal Licensing Officer had reviewed a number of key processes, and had commenced redrafting of them during Quarter 2. However, this officer was absent from the service during the whole of Quarter 3 and therefore it has therefore not been possible to progress this activity during this time.

Processes are reviewed and (if appropriate) refreshed as required (contributing to Outcome 4).

Processes are continually reviewed and where appropriate amended and reissued. During the third Quarter, the following processes were reviewed by the Business Regulation Manager and revised as a result:

- Driver medical certification (following a case in Nottinghamshire where a motorcyclist was killed in an accident with a licensed vehicle). Our certification process was considered to be robust, but additional safeguards have been introduced.
- Vehicle applications where the vehicle's age exceeds the maximum specified in the policy. It was considered that this clarification was necessary following a recent appeal hearing in Sheffield Magistrate's Court.

3.1.8 The implementation of the Council's Hackney Carriage and Private Hire Policy has continued throughout the third Quarter of the year. All of the requirements that were introduced on a phased basis (by way of the implementation scheme) are now in effect. As a result, licences are no longer issued to individuals / vehicles unless all of the policy requirements have been met. The Council can therefore be confident that the standards that are set for those that are licenced are amongst the highest in the country.

3.1.9 Adherence to the policy is demonstrated by adherence to four key requirements:

- Number of drivers that have subscribed to the Disclosure and Barring Service Online Update Service.
- The number of drivers that have completed the Council's safeguarding training.
- The number of vehicles that have had a taxi camera fitted (where one is required).
- The number of drivers that have obtained a BTEC Level 2 Qualification in the "Introduction to the Role of the Professional Taxi and Private Hire Driver" or hold an equivalent qualification.

3.1.10 Three out of the four requirements have seen very good compliance rates (98% or above).

3.1.11 With regard to taxi cameras, the figure represents the number of licensed vehicles that require a camera and have had one installed. At the time of writing this report, 100% of vehicles had met the appropriate deadline. There were 2% of vehicles in the fleet that had not had a camera fitted – however these will not be required to do so until early in the final Quarter of 2016/17.

3.1.12 The requirement for drivers to obtain the BTEC qualification (or equivalent) is relatively low at 62%. It should be noted that, at the current time, compliance with this requirement is verified at the point that a driver renews their licence. As licences are typically valid for a three year period, it is possible that there are a significant number of licence holders that possess the required qualification but this has not yet been verified by the Council (as they have not yet renewed their licence). It should also be noted that 100% of driver licences that have been issued since 6th July 2016 (204 in total) have only been issued if the driver meets the BTEC qualification requirement.

3.1.13 Three new Licensing Enforcement Officers are being recruited in early 2017 which will enable additional proactive checks to take place to identify those drivers that have not yet obtained the qualification and to pursue appropriate enforcement action against those that do not meet the requirements.

3.1.14 Other significant developments of note in the third Quarter of the year include:

- The Secretary of State for Communities and Local Government has formally returned the licensing functions back to the Council. This is the culmination of a significant amount of work by the Council and represents a positive step on our overall improvement journey.
- The Council successfully defended a legal challenge against the requirement for taxi cameras to be installed in licensed vehicles.
- Council Members and officers have presented at a number of sessions arranged by the Local Government Association to share our experiences and learning over the past 12 – 18 months. The presentations that were delivered were very well received by those that attended.

3.1.15 The Licensing service has continued to contribute to the delivery of the Council's financial targets by way of ensuring that all appropriate fees are fully recovered, and by working to ensure that our licensing processes are as efficient as possible – areas we are currently working on include:

- The introduction of online applications for the majority of licences.
- Online booking of vehicle compliance tests

Further details on both of these areas of work will be available in future updates.

3.2 Update on the audit of drivers against the requirements of the new policy.

- 3.2.1 Members will recall that following the review of all licensed drivers against the requirements of the Council's Hackney Carriage and Private Hire Licensing Policy, it was identified that there was a need to review information held in the Council's archive files.
- 3.2.2 There are 1304 driver files held in the council's archive, 744 of these relate to drivers that are currently licensed. All 744 files that relate to currently licensed drivers have been reviewed by an appropriately qualified and experienced licensing professional.
- 3.2.3 The review has seen the assessment of all information held within the file to identify whether any of it impacts on the fitness and propriety of the driver involved. The information that has been reviewed includes:
- Application forms and associated paperwork
 - Any correspondence for statutory / non-statutory agencies (including South Yorkshire Police, Disclosure and Barring Service, safeguarding boards etc.)
 - Meeting notes, witness statements, complaint investigations (as applicable)
 - Any correspondence regarding the driver / allegations made against the driver
 - Any files notes that may be present
- 3.2.4 Of the 744 files that have been reviewed, nine were identified as containing information that required further review by a senior manager. This further review identified three cases of concern
- 3.2.5 Enquiries have been made with South Yorkshire Police and the National Crime Agency, and all information that was held in the file has been reviewed in detail. As a result of this detailed review, it has been confirmed that it would not be appropriate to take further action in relation to the three identified cases.

3.3 Proposed priorities for the licensing service in 2017/18

- 3.3.1 Over the past 18 months, the key priority for the licensing service has been the delivery of the licensing improvement plan and the effective implementation of the Hackney Carriage and Private Hire Licensing Policy. The amount of work involved in this has decreased to the extent that it is now appropriate to consider the priorities for the service over the coming financial year.
- 3.3.2 Discussions have taken place with key partners (in particular South Yorkshire Police) and stakeholders, and the following key priorities are proposed for the financial year 2017/18:

Private Hire Operators

Much of the focus from the licensing service has been directed towards hackney carriage and private hire drivers. There is a need to shift this focus towards Private Hire Operators in order to assure ourselves that our Licensed Private Hire Operators meet our requirements.

This will include the following activities:

- Review of the way that the Council's fitness and propriety requirements to all operators that are licensed by Rotherham MBC.
- Reviewing the business practices of Operators in order to evaluate whether these practises have an effect on the activities of the drivers that they operate.
- Review and analyse complaints, statistics and other information in relation to Operators to identify any trends / patterns of behaviour that may indicate the need for further scrutiny of individual Operators.

Takeaways / late night restaurants

Both Louise Casey's and Alexis Jay's reports identified a number of links between the taxi / private hire trade and the exploitation of vulnerable people. The reports also identified a link between this activity and licensed premises, such as takeaways and late night restaurants.

There is therefore a need to take action in relation to this activity, and ensure that any premises that are not adequately promoting the licensing objective of protecting children from harm are dealt with appropriately. This will include:

- The identification of opportunities to work with partners to raise awareness of safeguarding matters within the takeaway / restaurant trade.
- Review work that has been identified as good practice nationally with a view to developing and implementing similar projects / schemes in Rotherham.
- Further development of information / intelligence sharing pathways between the council's licensing service and South Yorkshire Police, the National Crime Agency and other relevant partners.

3.3.3 Any views / comments that Members of the Licensing Board would wish to make in relation to these (or other suggested) priorities would be welcome.

3.4 Enforcement actions undertaken by the licensing service (including current position in relation to Court appeals).

3.4.1 In June 2015, the council introduced a revised General Enforcement Policy. This policy sets out the council's approach to enforcement and demonstrates how individual enforcement services are adhering the Principles of Good Regulation.

3.4.2 This report outlines the enforcement work undertaken in relation to the licensing function, and provides detail on how the services ensure that such activity complies with the requirements of the council's General Enforcement Policy.

3.4.3 Enforcement relating to the council's licensing function takes two forms:

3.4.3.1 Enforcement related to the issuing of driver, vehicle and operator licences. This includes the appropriate application of the 'fit and proper' test (further details are contained within the Hackney Carriage and Private Hire Licensing Policy). The correct application of the policy will result in the grant, refusal, suspension or revocation of a licence. This process is administered by the licensing admin team in conjunction with the Licensing Board. Action may be taken as a result of information provided by the licensing enforcement team, police, National Crime Agency or other statutory / non-statutory agency.

3.4.3.2 Reactive investigations and proactive operations to establish / evaluate compliance with regulatory provisions and licence conditions. This takes the form of complaint investigations, pre-arranged enforcement operations (such as vehicle safety checks) and observations to identify non-compliance with licensing requirements. Action may ultimately lead to the referral of licence holders to a case hearing meeting and / or the instigation of legal proceedings in the criminal courts. The licensing enforcement team is was formerly located within the Community Protection Unit, however following the service restructure the team became part of the Business Regulation Service in February 2016.

3.4.4 Part 2 of the Legislative and Regulatory Reform Act 2006 requires the Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function. For

local authorities, the specified functions include those carried out in relation to the council's licensing service.

- 3.4.5 The council is required to undertake enforcement in relation to its licensing function, however the way in which enforcement activity is undertaken is at the discretion of the council. The vast majority of complaints are dealt with on an informal basis which means that they do not result in criminal proceedings.
- 3.4.6 The licensing service exercises its regulatory activities in a way which is:
 - 3.4.6.1 Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
 - 3.4.6.2 Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
 - 3.4.6.3 Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.
 - 3.4.6.4 Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
 - 3.4.6.5 Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.
- 3.4.7 In undertaking its enforcement activities, the council's licensing service needs to demonstrate compliance with these elements.
- 3.4.8 Information in relation to the activities of the licensing enforcement team is attached to this report as Appendix 2.
- 3.4.9 Information in relation to the activities of the licensing admin team is attached to this report as Appendix 3 (please note that this also includes enforcement actions undertaken as a result of decisions made following consideration of a matter at a Case Hearing Meeting, or more recently the Licensing Board).
- 3.4.10 Any person aggrieved by such a determination has the right of appeal to the Magistrates' Court, which must be exercised within 21 days of receipt of written notification of the decision.

3.4.11 Between February 2015 and December 2016 (inclusive) there have been 41 appeals and we have successfully defended 28 of them (success rate of 68%). There are a further 13 appeals still pending (as at the end of December 2016). All of these relate to driver matters only and do not include the cases involving vehicles.

3.4.12 There have been 9 appeals against vehicle conditions – eight of these related to taxi cameras (all successfully defended), and one was in relation to the vehicle age requirement (appeal withdrawn by applicant).

3.4.13 The right of appeal to the Crown Court is also available to the Licensing Authority and in one case that right of appeal has been exercised. This case involved a strong element of alleged grooming-like behaviour by the taxi driver concerned and was The Crown Court found in the Council's favour and upheld our appeal.

3.4.14 Further detail in relation to individual appeals is available on request. If members wish to discuss any of these cases in further detail then this may be dealt with in the confidential part of the agenda.

3.4.15 Initial enforcement in relation to costs that are awarded is via the sundry debtors' process. Thereafter any costs remaining unpaid are pursued by Legal Services through the civil enforcement processes available through the County Court.

3.5 Service restructure / staffing update.

3.5.1 There have been a number of changes to the staffing arrangements within the Licensing Service:

3.5.1.1 Ivan Thompson (Trading Standards and Licensing Manager) has now left the Authority. Recruitment to this post is pending due to the current review of the Community Safety and Street Scene department.

3.5.1.2 Steve Shallow (Principal Licensing Officer) has also left the authority. It is anticipated that recruitment to this post will commence in May 2017, with an appointment being made in June / July 2017.

3.5.1.3 Three Licensing Enforcement Officers have been appointed – two of these officers will commence their employment on 20th February 2017, with the remaining officer commencing on 13th March 2017. There are plans to bring an additional officer into the team as soon as possible.

3.5.2 The post of Senior Licensing Enforcement Officer remains vacant at the current time. Previous recruitment exercises did not identify any applicants that were considered suitable for the role, it is anticipated that this role will be advertised in May / June 2017.

3.5.3 There is vacant Licensing Support Officer vacancy within the team. This post is currently covered by an agency contractor, and will be recruited to on a permanent basis as soon as is appropriate.

4. Options considered and recommended proposal

4.1 The report is for information only, and therefore no options / proposals are recommended.

4.2 However, in relation to enforcement work, the service has a number of options available to it:

4.2.1 Compliance Advice, Guidance and Support

4.2.1.1 The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation / licence condition that are identified. Advice is provided, sometimes in the form of a warning letter, to assist licence holders in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence and will illustrate a graduated, proportionate response in relation to enforcement.

4.2.2 Refusal / Suspension / Revocation of Licences

4.2.2.1 Licence applications will be refused where applicants are not considered to meet the standards / requirements that are required by the council.

4.2.2.2 Where a licence holder fails to adhere to certain standards, acts inappropriately or breached a licence condition, the council will review the licence by referring the matter to a hearing before Commissioner Ney and members of the Advisory Licensing Board. If it shown, on the balance of probabilities, that the licence holder is no longer considered to be a 'fit and

proper' person to hold a licence then the review may lead to a revocation or suspension of the licence.

- 4.2.2.3 When considering future licence applications, the Council may take previous breaches and enforcement action into account.

4.2.3 Prosecution / simple caution

- 4.2.3.1 Licence holders that are shown to have committed significant breaches of licence condition (or unlicensed individuals that have undertaken licensable activity) may be the subject of legal proceedings by the council. This may take one of two forms, a simple caution or a prosecution. Either of these options may be considered in conjunction with a revocation or suspension of a licence.
- 4.2.3.2 Simple cautions (previously known as 'formal cautions') are issued as an alternative to prosecution for some less serious criminal offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the Council will proceed to a prosecution of the individual.
- 4.2.3.3 A simple caution for a criminal offence will appear on the offender's criminal record. It is likely to influence how the Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.
- 4.2.3.4 Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.
- 4.2.3.5 The Council may prosecute in respect of more serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute, the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.
- 4.2.3.6 Prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

4.2.3.7 Before deciding that prosecution is appropriate, the Council will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

- Seriousness of the offence committed
- The level of culpability of the suspect
- The circumstances of, and the harm caused to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is prosecution a proportionate response?
- Do sources of information require protecting?

4.2.3.8 A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence.

4.2.3.9 The conviction of an individual for an offence will require proof beyond reasonable doubt.

4.2.4 The selection of the most appropriate enforcement option in relation to a particular situation is determined by the investigating officer. That said, all enforcement cases are signed off by the Principal Licensing Officer prior to the investigation being closed. In addition, a sample of completed investigations is evaluated by service management as part of the Performance Management Framework in order to confirm that the correct action has been taken in all cases.

5. Consultation

5.1 Extensive consultation took place in relation to the development of the policy requirements.

5.2 Consultation with representatives of the licensed trade was undertaken during the development of the implementation scheme, with the proposed scheme was agreed by Commissioner Ney in August 2015 following consultation with members of the Advisory Licensing Board.

6. Timetable and Accountability for Implementing this Decision

6.1 This report is for information and comments only

7. Financial and Procurement Implications

7.1 There are no financial or procurement implications directly associated with this report.

- 7.2 There is, however, the risk of financial penalties (as outlined below) resulting from potential legal challenges if the Council does not provide an effective licensing service.

8. Legal Implications

- 8.1 Failure of the licensing service to effectively implement and administer the requirements of the council's policy may result in a legal challenge being made against the council.
- 8.2 A successful legal challenge will have a financial and reputational impact on the council – it is therefore essential that the policy is implemented effectively and administered appropriately.
- 8.3 The Council must be able to demonstrate effectiveness of the policy and provide confidence and reassurance regarding its implementation.

9. Human Resources Implication

- 9.1 In order to ensure the effective implementation and application of the policy and the ability to meet the performance measures, it is essential that all staff involved have the necessary knowledge and capability to undertake their role.
- 9.2 Staff understanding and awareness of the policy and its effective application will be monitored by team / service management at team meetings and periodic 1:1 meetings. Any development needs will be identified at these meetings and action taken as appropriate.
- 9.3 Effective communication within the team, particularly in relation to policy and performance matters, will ensure that the Council delivers a consistent approach to the implementation of the policy. This will also provide a common understanding and appreciation of any issues that arise as a result of the policy (and its implementation) – allowing the council to clarify or amend requirements as required.
- 9.4 In order to ensure the effective delivery of the council's licensing enforcement function it is essential that all staff involved have the necessary skills, knowledge and capability to undertake their role in accordance with legislative requirements, published guidance and the council's General Enforcement Policy.
- 9.5 Competency is maintained via the undertaking of appropriate training and continued professional development, and assessment of competency as 1:1 / supervision meetings which complement the annual Performance and Development Review cycle.
- 9.6 Any issues identified in relation to the enforcement work that is carried out are discussed with individual officers and corrective actions undertaken where necessary.

10. Implications for Children and Young People and Vulnerable Adults

10.1 Both the Jay report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Corporate Governance Inspection led by Louise Casey CB identified issues, amongst which was the importance of having an effective taxi licensing service.

10.2 In order to ensure the Council's Licensing Service is effective, fit for purpose, and has addressed the concerns raised in Louise Casey's report; the following outcomes must be demonstrated:

- All licence holders are "fit and proper" to hold licences.
- Trained decision makers must make high quality, appropriate and timely decisions that protect the public from risk of harm.
- The Licensing Service uses all available statutory powers appropriately, proactively and reactively, to disrupt criminal activity (including CSE and related activity).
- The licensing team must consistently provide high quality, timely processing of licensing applications.
- The Council's Private Hire and Hackney Carriage Licensing Policy will be effectively implemented.

10.3 In order to address this, the service has developed a performance management framework and improvement plan to provide assurance that the outcomes identified above are achieved.

10.4 At the heart of the new policy, service improvement plan and the performance framework lies a commitment to the protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder. The effective implementation of the licensing policy and the standards that it contains plays an important part in the protection of children and vulnerable people in Rotherham.

10.5 Since the publication of the report, the licensing team have been working with colleagues in Children's Services to ensure that those involved in the care and support of looked after children are aware of the key contacts within licensing, the nature of information that can be passed on to the licensing team and the action that the team can take as a result. This has been achieved by identifying single points of contact within the Business Regulation Service and Children's Services, and an agreed protocol for the sharing of information between services (making use of the formal, documented Local Authority Designated Officer procedures within Children's Services)

10.6 In addition, action has been taken to repair and formalise the information sharing processes within the council and between its partners. This includes the regular attendance of a senior manager from the council's

regulatory service at the weekly CSE Intelligence Sharing Meetings that are chaired by South Yorkshire Police. Information that is discussed at the weekly meetings includes detail on offenders, victims and locations of concern. These meetings also provide a forum where a multiagency approach to a problem can be discussed – if need be with formation of a separate task and finish group consisting of the various council services and partner agencies.

10.7 The service has also developed an excellent working relationship with the National Crime Agency, this sees the regular exchange of information in relation to potential concerns around licensed individuals / premises – and on more than one occasion has resulted in the revocation of driver licenses with immediate effect.

10.8 The council's Hackney Carriage and Private Hire Licensing Policy makes it clear that non-conviction information can be taken into consideration when making decisions regarding licensing matters (there had previously been a criticism that officers acted only when a licence holder had actually been convicted of an offence). The policy confirms that the safety of the travelling public must be the paramount concern.

11. Equalities and Human Rights Implications

11.1 In undertaking its licensing function, the Council comply with relevant legislative requirements including the Human Rights Act 1998.

11.2 The policy (along with the council's General Enforcement Policy) will ensure the consistent and fair determination of licences – recognising that every individual is entitled to dignity and respect.

11.3 When making licensing decisions the Council and its officers aim to ensure there is no discrimination on the grounds of culture, ethnic or national origins, gender, disability, age, sexual orientation, political or religious beliefs, socio-economic status, or previous criminal conviction or caution which is not relevant to the current issue.

11.4 Adherence to these requirements are assured by means of officer awareness, observation, case reviews and both customer satisfaction and complaints received into the service. In addition, those affected by licensing decisions have the legal right to challenge that decision in the Magistrates Court.

12. Implications for Partners and Other Directorates

12.1 It is recognised that enforcement and compliance activity often cannot be carried out in isolation by the Council. Its key partnerships with other agencies e.g. South Yorkshire Police, HM Revenue and Customs and the Driver and Vehicle Standards Agency are critical to ensure a comprehensive approach to regulation.

13. Risks and Mitigation

- 13.1 Failure of the Council to effectively discharge its licensing function may compromise public safety.
- 13.2 The Hackney Carriage and Private Hire Licensing Policy and draft performance framework must give confidence to licence holders and the public of the effective performance management of Council processes and the transparency and fairness of the Council's approach to enforcement.
- 13.3 Responsibility for ensuring compliance with the policy rests with team and service management, with appropriate overview and scrutiny by Commissioner Ney and members of the Licensing Board.
- 13.4 Failure of the Council to effectively discharge its licensing enforcement functions may compromise public safety.
- 13.5 Compliance with the General Enforcement Policy gives confidence to business and individuals of the transparency and fairness of the Council's approach to enforcement, without which the Council's reputation might be at risk.

14. Accountable Officer(s)

- 14.1 Alan Pogorzelec – Business Regulation Manager
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Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|--|---------------|-----------|-----------|-----------|--|
| Outcome 1. All licence holders are “fit and proper” to hold licences. | | | | | |
| % of applications that are determined only after all required checks have been undertaken. | 100% | 100% | 100% | | Quarter 3 target has been met in full. |
| % of complaints / information referrals where the initial response meets service standards (response within 3 working days). | 100% | 80% | 90% | | <p>During a management review of complaints received, it became apparent that only 1 of the 10 complaints that were reviewed during the third Quarter were found not to comply with the service target of an initial response within 3 working days.</p> <p>This incident was referred to licensing immediately prior to the Christmas / New Year break and was unfortunately not picked up until after the three day response time had passed. There were no safeguarding issues as a result of the delay in responding to this matter.</p> |
| % of complaints / service requests where no formal action has been taken that have been appropriately investigated. | 100% | 100% | 100% | | Quarter 3 target has been met in full. |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|---|---------------|-----------|-----------|-----------|--|
| Outcome 2. Decision makers make high quality judgements that protect the public from risk of harm. | | | | | |
| % of case hearing information provided to Committee Services by to the agreed deadline. | 100% | 50% | 67% | | There were three case hearings during the third Quarter of 2016/17. Reports for two of these hearings were provided within the required timescale. The remaining report was provided one day after the deadline. |
| % of Licensing Board members that have received training in the role. | 100% | 81% | 86% | | <p>The Licensing Board consists of 21 Councillors; all but three of these have attended a training course outlining the role and function of the Licensing Board. The three Councillors that did not attend were Cllrs Hague, Napper and Wilson – they were unable to attend as a result of prior commitments / engagements.</p> <p>Any Councillor that has not attended the training will not be involved in the decision making process until they have attended a training session. It is expected that a further training session will take place in the first Quarter of 2017/18 – however a date is yet to be confirmed.</p> |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|---|---------------|-----------|-----------|-----------|--|
| % of Licensing Board decisions that are made in accordance with the Council's policy. | 100% | 100% | 100% | | Quarter 3 target has been met in full. |
| % of licensing decisions that are made in accordance with the scheme of delegation to officers and members / commissioners. | 100% | 100% | 100% | | Quarter 3 target has been met in full. |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|--|-----------------------|-----------|-----------|-----------|---|
| Outcome 3. The licensing service make maximum use their statutory powers (where appropriate) to disrupt criminal activity (including CSE and related activity). | | | | | |
| Attendance of licensing team at weekly CSE intelligence meetings (chaired by South Yorkshire Police). | 80% | 69% | 58% | | <p>There were 12 meetings held within the third Quarter of 2016/17, the Business Regulation Manager attended 7 of these. Apologies were given due to annual leave (3 occasions), attendance at an M3 managers meeting and attendance at a Local Government Association Seminar (presenting at the seminar).</p> <p>The Chair of the group has previously confirmed that it would not be appropriate to send a delegate to the meeting in normal circumstances, and that any actions / relevant information will be provided directly to the Business Regulation Manager as appropriate.</p> |
| Circulation of key contacts to partners for use in cases of referrals and for data sharing. | Once every six months | - | - | | <p>It is not clear whether this action was completed during the third Quarter of the year (due to the absence of the Principal Licensing Officer during the whole of Quarter 2), however the Business Regulation Manager will circulate contacts early in the final Quarter of the year.</p> |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|---|---------------|-----------|-----------------------|-----------|--|
| Number of multiagency operations undertaken | 4 (annually) | 3 | 0 in Q3 3 in total | | <p>The target of 4 is an annual target based on one multiagency operation per Quarter. The operations may be proactive or reactive in nature and will include partners such as South Yorkshire Police, Her Majesty’s Revenue and Customs and the Vehicle and Operator Standards Agency.</p> <p>There were no multiagency operations undertaken during the third Quarter of the year.</p> |
| Number of proactive operations undertaken | 6 (annually) | 2 | 3 in Q3 5 in total | | <p>The target of 6 is an annual target based on one RMBC lead proactive operation every two months. Operations may involve RMBC in isolation or may be multiagency operations involving RMBC and partners.</p> <p>Three operations were undertaken in the third Quarter – all in relation to the taxi camera compliance requirement.</p> |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|---|-------------|-------------|--------------|----|--|
| Outcome 4. The licensing team consistently provides high quality processing of licensing applications. | | | | | |
| <p>% of applications that are processed in accordance with the licensing policy.</p> | <p>100%</p> | <p>100%</p> | <p>99.8%</p> | | <p>Service standards require a licence to be determined within 3 working days of all required checks being completed (the determination will either be for the licence to be issued, or the application referred to a case hearing meeting at a future date).</p> <p>In the third Quarter of 2016:</p> <p>111 driver licenses were determined, all but 7 were determined within 3 working days of all necessary checks being completed.</p> <p>438 vehicle licences / intermediate plates were determined, all of which were determined within 3 working days.</p> <p>Two vehicle licences were issued otherwise than in accordance with the Council’s policy. These related to two vehicles that should have been licensed to carry four passengers, but actually received a licence to carry six passengers. These errors were identified prior to the licence taking effect (in one case) and within a month of the licence</p> |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|---|---------------|-----------|-----------|-----------|--|
| | | | | | <p>being issued in the other case. Issuing officers have been reminded of the need to verify that the licence criteria match the paperwork that is provided as part of the application / approval process.</p> <p>11 Private Hire Operator Licences were determined, all of which were determined within 3 working days.</p> |
| % of licensing records that contain all required information in a secure but accessible format. | 100% | 90% | 100% | | <p>Management have reviewed 20 driver and vehicle records within the third Quarter of 2016/17. No instances were identified where data had been recorded inappropriately.</p> |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|---|-------------|------------|------------|----|--|
| Outcome 5. The Council’s private hire and hackney carriage licensing policy will be effectively implemented. | | | | | |
| <p>% of licensed vehicles that have a taxi camera fitted in accordance with the Council’s policy.</p> | <p>100%</p> | <p>96%</p> | <p>98%</p> | | <p>This figure represents the number of licensed vehicles that require a camera and have had one installed.</p> <p>Licences (and intermediate plates) are not issued unless a camera system has been fitted into the vehicle.</p> <p>For the purposes of this indicator, those vehicles that have made a commercial commitment to have a camera fitted are counted as though they have had a system fitted.</p> <p>Enforcement action will continue to be taken in relation to any of the 2% that have not had a camera fitted (or made an arrangement to do so) and the deadline for installation has passed.</p> <p>At the time of writing this report, 100% of vehicles had met the appropriate deadline. The 2% of vehicles that have not had a camera fitted were not required to do so until after the end of Quarter 3.</p> |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|--|---|---|---|-----------|--|
| % of driver licence holders that are required to have maintained a subscription to the DBS online update service and have done so. | 100% | 100% | 100% | | This figure indicates the number of eligible licence holders that have subscribed to the DBS online update service. The subscription is an annual subscription; however there are a number of licence holders that have been required to renew their subscription within the third Quarter of the year. Any licence holders that have failed to maintain their subscription will be identified in the final Quarter of the year and action taken as appropriate. |
| % of licence holders that demonstrate adherence to the requirements of the Council's policy. | Figures for each sub-indicator: 1) 100% 2) 100% | Figures for each sub-indicator: 1) 97% 2) 56% | Figures for each sub-indicator: 1) 98% 2) 62% | | Adherence to the policy is demonstrated by compliance levels in relation to four sub-indicators. Two of these sub-indicators are dealt with above, with the remaining two being as follows: 1) % of drivers that have completed the Council's safeguarding awareness course. 98% of drivers have completed the Council's safeguarding training, the remaining 2% of licence holders remain suspended and are not currently driving a licensed vehicle. 2) % of drivers that have obtained the |

Third Quarter Performance against the Licensing Performance Management Framework.

| Performance Measures | Target | Q2 | Q3 | Q4 | Comments |
|----------------------|--------|----|----|----|--|
| | | | | | <p>BTEC / NVQ qualification.</p> <p>62% of drivers (682) have obtained the BTEC / NVQ qualification. Those drivers that have not yet made sufficient progress in relation to the obtaining the requirement will be identified and appropriate enforcement action taken in relation their failure to obtain the required qualification – this may include suspension of their licence until such time as they obtain the qualification.</p> |

APPENDIX 2 – 2016 / 17 Quarter 3 Enforcement Data

| Detail | Number | Prosecution | Revoked / refused | Suspended | Notice Issued | Warning | Advice Given | No further action | Insufficient evidence to proceed | Investigation ongoing |
|----------------------------|---------------|--------------------|--------------------------|------------------|----------------------|----------------|---------------------|--------------------------|---|------------------------------|
| Operator complaint | 1 | | 1 | | | | | | | |
| Dangerous Driving | 2 | | | | | 2 | | | | |
| Indecency - child | 0 | | | | | | | | | |
| Indecency - adult | 1 | | 1 | | | | | | | |
| Conduct of driver | 57 | | 4 | | | 25 | 13 | 15 | | |
| Charging issue | 2 | | | | | 1 | 1 | | | |
| Plying for hire | 0 | | | | | | | | | |
| Parking issue | 1 | | | | | | 1 | | | |
| Disability issue | 1 | | | | | 1 | | | | |
| Smoking in vehicle | 0 | | | | | | | | | |
| Using phone whilst driving | 3 | | | | | | 3 | | | |
| In-car camera issue | 5 | | | | 5 | | | | | |
| Breach of conditions | 7 | | | | | 3 | 3 | 1 | | |
| Condition of vehicle | 12 | | | | 12 | | | | | |
| Total | 92 | | 6 | 0 | 17 | 32 | 21 | 16 | 0 | 0 |

Proactive / multiagency enforcement operations:

Three operations were undertaken in the third Quarter – all in relation to the taxi camera compliance requirement.

There were no multi-agency operations undertaken during the third Quarter of the financial year 2016 / 17.

2016 / 17 Quarter 3 Enforcement Data – Licensing Admin Team

| | Commissioner / Licensing Board | Officer | Total |
|---|-----------------------------------|----------------|-------|
| Driver licences granted | 2 | 111 | 113 |
| Driver Licences Granted with additional conditions | 0 | 0 ^a | 0 |
| Driver licences suspended | 0 | 0 ^a | 0 |
| Driver licences revoked | 2 | 0 ^a | 2 |
| Driver licences immediately ^b revoked for: | | | |
| - Medical reasons | 0 | 0 | 0 |
| - Driver conduct | 0 | 1 | 1 |
| - DVLA licence issues | 0 | 0 | 0 |
| Driver licence – formal warning issued | 2 | 0 ^a | 2 |
| Driver licence – licence reviewed, no further formal action taken | 0 | 0 ^a | 0 |
| Driver Licence – application refused | 11 | 0 ^a | 11 |
| PH Operator licences issued | 0 ^c | 11 | 11 |
| PH Operator licences refused | 0 | 0 | 0 |
| Vehicle licences issued: | | | |
| - Hackney Carriage | 0 ^d | 25 | 25 |
| - Private Hire | 0 ^d | 351 | 351 |
| Current licence numbers (at time of report drafting): | | | |
| Hackney Carriage / Private Hire Driver Licences ^e | | 1030 | |
| Private Hire Vehicle Licences ^f | | 757 | |
| Hackney Carriage Licences ^f | | 52 | |
| Private Hire Operator Licences ^g | | 76 | |

2016 / 17 Quarter 3 Enforcement Data – Licensing Admin Team**Footnotes:**

- a Officers do not have the delegated authority to attach conditions, suspend or revoke a licence (except if the circumstances require a revocation or suspension to take effect immediately).
- b Suspensions or revocations of a licence may take effect immediately if it is considered necessary in the interests of public safety. In any other circumstance a revocation or suspension will take effect at the end of 21 days beginning on the day on which the suspension or revocation notice is issued.
- c Only referred to a hearing if the removal / amendment of a condition is required – officers do not have the delegated authority to amend licence conditions.
- d The determination of vehicle licences is largely an administrative process as there is no subjective assessment of fitness. As such, vehicle licence applications are almost always determined by officers using delegated authority.
- e Licences typically valid for a three year period.
- f From 6th January 2016, all vehicle licences issued will be valid for a period of 12 months.
- g Licences are valid for a one year period.

Summary Sheet

Council Report

Licensing Board 20th February 2017

Title

Hackney Carriage and Private Hire Licensing Decision Making – Delegation and Oversight

Is this a Key Decision and has it been included on the Forward Plan?

This is not a key decision.

Director Approving Submission of the Report

Karen Hanson – Assistant Director of Community Safety and Street Scene

Report author(s):

Alan Pogorzelec – Business Regulation Manager
Regeneration and Environment
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Ward(s) Affected

All wards

Executive Summary

On 27th February 2015, the UK Government directed that all of the powers conferred upon Rotherham MBC should be removed from the Council and exercised instead by Government appointed Commissioners. Since that time, a number of local authority functions and powers have been returned; powers in relation to licensing matters were restored to the Council on 13th December 2016.

This report provides detail on the statutory responsibility for decision making in relation to taxi and private hire licensing, outlines the decision making process and provides a summary of the processes that are in place to ensure effective oversight of the licensing function post 13th December 2016.

Recommendations

- That Members consider and approve the proposed scheme outlining the decision making and oversight processes related to Hackney Carriage and Private Hire Licensing.

List of Appendices Included

Appendix 1 - Proposed scheme outlining the decision making and oversight processes related to Hackney Carriage and Private Hire Licensing.

Background Papers

- None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Not applicable.

Council Approval Required

No.

Exempt from the Press and Public

Not exempt.

Title (main report)

Proposed amendments to certain fees charged in relation to vehicle licences

1. Recommendations

- 1.1 That Members consider and approve the proposed scheme outlining the decision making and oversight processes related to Hackney Carriage and Private Hire Licensing.

2. Background

- 2.1 Compliance tests in relation to licensed vehicles are currently undertaken on behalf of the council by Essential Fleet Services (EFS). The testing is delivered as part of the Corporate Fleet Management Contract, and the prices charged for the testing of vehicles are specified in that contract.

3. Key Issues

- 3.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 allocate responsibility for licensing functions to the Council (i.e. the elected members of the authority) and prohibit the Executive (i.e. the Cabinet or Members of the Cabinet) from exercising them. The Regulations specify that the following functions are allocated to the Council:
- Power to license hackney carriages and private hire vehicles.
 - Power to license drivers of hackney carriages and private hire vehicles.
 - Power to license operators of hackney carriages and private hire vehicles.
- 3.2 The regulations state that the functions include the imposition of conditions; the determination of terms to which any licence is subject; and decisions whether and how to take enforcement action.
- 3.3 It is clear that casework decisions about licensing matters fall to the Council; however it is appropriate for wider consultation relating to the adoption of general and/or specific policies in relation to licensing to take place to include the Lead Cabinet Member responsible for Waste, Roads and Community Safety (which includes responsibility for licensing enforcement policy).
- 3.4 Although the matters referred to above are the responsibility of the Council, they are in practice delegated to the Licensing Board / Sub Committee – with further delegation to officers as appropriate.
- 3.5 The proposed scheme outlining the decision making and oversight processes related to Hackney Carriage and Private Hire Licensing.

4. Options considered and recommended proposal

4.1 Only one option is put forward for consideration, and it is recommended that this is adopted.

5. Consultation

5.1 Consultation on the scheme of delegation has been undertaken with Commissioner Ney and Councillors Ellis and Hoddinott. Further consultation will take place with all Members through appropriate forums.

6. Timetable and Accountability for Implementing this Decision

6.1 It is expected that the scheme outlining the decision making and oversight processes related to Hackney Carriage and Private Hire Licensing will be agreed at the Annual Council Meeting in May 2017.

7. Financial and Procurement Implications

7.1 None.

8. Legal Implications

8.1 Legal services will provide input during the development of the final proposal, and all legal implications will be identified during this process.

9. Human Resources Implications

9.1 There are no specific implications for children, young people or vulnerable adults introduced by this report.

10. Implications for Children and Young People and Vulnerable Adults

10.1 Both the Jay report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Corporate Governance Inspection led by Louise Casey CB identified issues, amongst which was the importance of having an effective taxi licensing service.

10.2 In order to ensure the Council's Licensing Service is effective, fit for purpose, and has addressed the concerns raised in Louise Casey's report; the following outcomes must be demonstrated:

- All licence holders are "fit and proper" to hold licences.
- Trained decision makers must make high quality, appropriate and timely decisions that protect the public from risk of harm.

- The Licensing Service uses all available statutory powers appropriately, proactively and reactively, to disrupt criminal activity (including CSE and related activity).
- The licensing team must consistently provide high quality, timely processing of licensing applications.
- The Council's Private Hire and Hackney Carriage Licensing Policy will be effectively implemented.

10.3 In order to address this, the service has developed a performance management framework and improvement plan to provide assurance that the outcomes identified above are achieved.

10.4 At the heart of the new policy, service improvement plan and the performance framework lies a commitment to the protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder. The effective implementation of the licensing policy and the standards that it contains plays an important part in the protection of children and vulnerable people in Rotherham.

11. Equalities and Human Rights Implications

11.1 There are no specific equalities or human rights implications introduced by this report.

12. Implications for Partners and Other Directorates

12.1 There are no specific implications for partners and other directorates introduced by this report.

13. Risks and Mitigation

13.1 Failure of the Council to effectively discharge its licensing function may compromise public safety.

13.2 Responsibility for ensuring compliance with the policy rests with team and service management, with appropriate overview and scrutiny by Commissioner Ney and members of the Licensing Board.

14. Accountable Officer(s)

Alan Pogorzelec – Business Regulation Manager
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Proposed scheme outlining the decision making and oversight processes related to Hackney Carriage and Private Hire Licensing.

Delegation of decision making responsibility – hackney carriage and private hire licensing

The Council has appointed a Licensing Board to discharge the licensing functions which are outlined in the Scheme of Delegation for Members and Officers (appendix 9 of the Council's Constitution). The Scheme of Delegation states that the determination of matters relating to the Council's Statutory Licensing functions regarding hackney carriage and private hire licensing are the responsibility of the Licensing Board. Specific reference is made to the review and approval of fees and charges, and the review / approval of any terms and conditions that relate to a licence.

The Scheme of Delegation also provides for the Licensing Board to establish Sub-Committees as required from time to time.

In order to provide for the effective discharge of the Council's functions in relation to hackney carriage and private hire licensing, the Licensing Board will establish a sub-committee to consider individual applications for the review, renewal or grant of hackney carriage and private hire licences. All applications relating to hackney carriage and / or private hire licensing will be determined by a Licensing Board Sub-Committee, with the following exemptions:

Grant or renewal of driver licences:

The Assistant Director of Community Safety and Street Scene (or an officer authorised or appointed by them) is authorised to issue licences in the following circumstances:

- A new application where the applicant's DBS Disclosure Certificate shows no convictions or adverse information.
- A new application where the applicant's DBS Disclosure Certificate shows only convictions / cautions under the following circumstances:
 - 11 years have elapsed since the date of the most recent conviction, and
 - it is the applicant's only offence, and
 - the offence did not result in a custodial sentence, and
 - the offence did not involve a sexual element, violence (or fear of violence) or illegal / controlled drugs, and
 - there is no additional information on the Disclosure Certificate that has been provided at the discretion of the Chief Officer of Police.
- A renewal application where the applicant's DBS Disclosure Certificate shows no additional convictions or adverse information that has not previously been considered by the Commissioner or Licensing Board, and

there has been no break in the licence period since the matter was considered.

Immediate revocation or suspension of driver licences:

The Assistant Director of Community Safety and Street Scene (or in their absence the Strategic Director for Regeneration and Environment or an officer authorised or appointed by them) is authorised to revoke or suspend driver licences in the following circumstances:

- Where an immediate revocation or suspension is considered to be necessary in the interests of public safety. This decision will only be taken following consultation with the Chair of the Licensing Board, where possible.
- Where a suspension is required for administrative reasons, such as failure to provide satisfactory documentation.

Grant or renewal of vehicle licences:

The Assistant Director of Community Safety and Street Scene (or an officer authorised or appointed by them) is authorised to determine all vehicle licence applications.

Suspension of vehicle licences:

The Assistant Director of Community Safety and Street Scene (or an officer authorised or appointed by them) is authorised to suspend vehicle licences in the following circumstances:

- Where a suspension is considered to be necessary in the interests of public safety (such as when the vehicle is in such a state of disrepair that it presents a risk to public safety).
- Where a suspension is required for administrative reasons, such as failure to provide satisfactory documentation.

Grant or renewal of Private Hire Operator Licences:

The Assistant Director of Community Safety and Street Scene (or an officer authorised or appointed by them) is authorised to issue licences in the following circumstances:

- A new application where the applicant's DBS Disclosure Certificate shows no convictions or adverse information.
- A new application where the applicant's DBS Disclosure Certificate shows only convictions / cautions under the following circumstances:
 - 11 years have elapsed since the date of the most recent conviction, and

- it is the applicant's only offence, and
 - it did not result in a custodial sentence, and
 - the offence did not involve a sexual element, violence (or fear of violence) or illegal / controlled drugs, and
 - there is no additional information on the Disclosure Certificate that has been provided at the discretion of the Chief Officer of Police.
- A renewal application where the applicant's DBS Disclosure Certificate shows no additional convictions or adverse information that has not previously been considered by the Commissioner or the Licensing Board, and there has been no break in the licence period since the matter was considered.

Suspension of Private Hire Operator licences:

The Assistant Director of Community Safety and Street Scene (or an officer authorised or appointed by them) is authorised to suspend operator licences in the following circumstances:

- Where a suspension is considered to be necessary in the interests of public safety. This decision will only be taken following consultation with the Chair of the Licensing Board, where possible.
- Where a suspension is required for administrative reasons, such as failure to provide satisfactory documentation.

Revocation of licences:

The Assistant Director of Community Safety and Street Scene (or an officer authorised or appointed by them) is authorised to revoke operator licences and / or driver licences in the following circumstances:

- Where a revocation is considered to be necessary in the interests of public safety. This decision will only be taken following consultation with the Chair of the Licensing Board, where possible.

The Licensing Board (or sub-committee) retains the right to review any licence / licence application and take further action should the Chair of the Licensing Board consider it necessary to do so.

The Assistant Director of Community Safety and Street Scene reserves the right to refer any application to the Licensing Board (or sub-committee) should the Assistant Director consider it necessary to do so.

In addition to the determination of licence applications, the following functions are delegated to the Licensing Board (or sub-committee in appropriate cases):

- The power to make amendments to the Council's Hackney Carriage and Private Hire Licensing Policy is delegated to the Licensing Board.

- The power to authorise officers to deviate from the requirements of the Hackney Carriage and Private Hire Licensing Policy is delegated to the Licensing Board. In urgent cases, the Licensing Board has authorised the Chair and / or Vice Chair of the Licensing Board to act on behalf of the Licensing Board on a case by case basis. In cases where the Chair and / or Vice Chair have acted in accordance with this delegation, the matter will be reported to the next available Licensing Board (or sub-committee) for review and ratification.
- In cases where an appeal against a council decision has been upheld by a court, the decision to instruct the council's legal service to lodge an appeal to a higher court is delegated to the Chair and / or Vice Chair of the Licensing Board. This decision will be made in consultation with appropriate officers from the council's Licensing and Legal Services. In cases where the Chair and / or Vice Chair have acted in accordance with this delegation, the matter will be reported to the next available Licensing Board (or sub-committee) for review and ratification.

The Licensing Board will also provide an oversight role in relation to the delivery of the licensing service – further detail on this is provided later in this briefing note.

Oversight by Service and Senior Management

The responsibility for the effective delivery of the Council's licensing service is that of the Assistant Director for Community Safety and Street Scene.

In order to ensure the Council's Licensing Service is effective, fit for purpose, and has addressed the concerns raised in Louise Casey's report; it is considered that the following outcomes must be demonstrated:

Outcome 1 All licence holders are "fit and proper" to hold licences.

Outcome 2 Trained decision makers must make high quality, appropriate and timely decisions that protect the public from risk of harm.

Outcome 3 The Licensing Service uses all available statutory powers appropriately, proactively and reactively, to disrupt criminal activity (including CSE and related activity).

Outcome 4 The licensing team must consistently provide high quality, timely processing of licensing applications.

Outcome 5 The Council's Private Hire and Hackney Carriage Licensing Policy will be effectively implemented.

A series of performance measures have been developed to provide confidence and reassurance in the effectiveness of the Licensing Service. This performance framework addresses each of the outcomes referred to above, and gives detail on a number of measures that will indicate whether the desired outcomes are being met. The Licensing Performance Framework has been agreed by the Senior

Leadership Team. A report is presented to the Senior Leadership team each quarter that details performance against the framework, and provides reassurance to the senior team that the service is being delivered effectively.

In addition, the Licensing function features heavily on the Council's Internal Audit Programme and service management have taken ownership of any action / improvement plans that are developed as a result of the findings of an Internal Audit review.

Oversight by Elected Members of the Council

It is essential that there is effective Member oversight in relation to the delivery of the Council's Licensing function. This includes oversight of both the Licensing Board itself, and of those functions that are delegated to officers. Oversight by Elected Members will take place via three separate strands.

1. The Licensing Board will be provided with a report each quarter that details performance against the Licensing Performance Framework. This report will be similar to the quarterly report presented to the Senior Leadership Team, but will also include the outcome of any comments made by the Senior Team regarding the report, and give details of any actions that were requested in order to address any areas of concern / note.

In addition, the quarterly report will include detail on the following matters:

- Policy implementation or revision to the policy content
- An overview of decisions made in relation to applications
- A summary of appeal cases that have been considered by the Courts
- An overview of enforcement activity and the results of pre-planned enforcement operations
- Any general issues affecting the licensing service (staffing issues for example).

The quarterly report will be presented by a Senior Manager from the service, with a recommendation that the Licensing Board formally note the report and provide comments in relation to it.

2. The formal minutes of each Licensing Board and / or Sub-Committee will be referred to the next Council Meeting for review and acceptance. This will ensure that matters regarding Licensing are brought to the attention of all Council Members, and information is not restricted to those that have been appointed to the Licensing Board.
3. It is within the Terms of Reference of the Overview and Scrutiny Management Board (OSMB) to monitor and hold to account the performance of service delivery within the council. In addition, the OSMB may review and scrutinise the decision making processes or actions taken in connection with the discharge of statutory functions.

It is therefore proposed that the work programme of the OSMB includes an appraisal of decisions made by officers (in line with the Scheme of Delegation) and those of the Licensing Board / Sub-Committee. These appraisals will

include a review of the paperwork that was provided to the Board / Committee prior to the decision being made, and consideration of the decision in light of the information presented at the meeting (and detailed in the decision notice issued following the meeting). Although the OSMB will not have the ability to amend decisions (except in extreme cases where the decision was clearly wrong), it will nonetheless provide an additional level of scrutiny of both officer and Elected Member decision making.

In addition, the OSMB will consider in detail the report (or elements of it) that is reported to the Licensing Board on a quarterly basis. Members of the OSMB will request further information as necessary in order to provide themselves with appropriate assurance that the Licensing service is being delivered in accordance with statutory and policy requirements.

Oversight by Commissioner Ney

Although the powers of the local authority in relation to all licensing matters have been exercised been restored to the Council, there is an ongoing requirement for oversight by Commissioners. This role will be undertaken by Commissioner Mary Ney. The arrangements below will be in place until March 2016 and will then be reviewed with a view to scaling back the oversight as appropriate:

- Monthly Meeting of Business Regulation Manager and Chair of Licensing with Commissioner Ney for the period to March 2016 when the frequency will be reviewed . Meetings to include review of position with regard to implementing the new policy, the position regarding appeals, the position on dealing with remaining cases from the audit of drivers and review of archives, any issues arising regarding National Crime Agency and South Yorkshire Police investigations, a review of the service performance plan and functioning of the team and any other significant issues. A representative of the Council's Legal Services team is to attend as required.
- Licensing Update included on the agenda of any briefing meetings of Commissioner Ney with Cabinet Member.
- Commissioner Ney to be provided by email with agendas for all Licensing Boards, sub-committees and hearings.
- A meeting of Licensing Board is to be held in February 2017 to review progress on implementing the new Policy. Commissioner Ney is to attend this meeting.
- Commissioner Ney is to be copied into final statement of decision following any case hearings.
- Commissioner Ney to be copied into the consultation emails to the Chair of Licensing on the exercise of officer delegation to immediately revoke licenses in the interests of public safety.

- Commissioner Ney to be advised of any taxi trade issues emerging from Police investigations, criminal trials or media comment.
- Commissioner Ney to see final draft of the Council's response to any Government consultation on licensing matters.
- The Chair of the Licensing Board and /or the Business Regulation Manager to identify any case hearings which they would wish to invite Commissioner Ney to attend in an advisory role (e.g. cases previously adjourned or outstanding, cases of specific concern).
- Commissioner Ney to meet with the Strategic Director / Assistant Director as and when required in order to provide notice of concerns or issues which need resolution.

Commissioner Ney will review, and if necessary amend, the extent of her oversight as she considers appropriate from time to time.

Summary Sheet

Council Report

Licensing Board 20th February 2017

Title

Proposal to increase Hackney Carriage Tariffs

Is this a Key Decision and has it been included on the Forward Plan?

This is not a key decision.

Director Approving Submission of the Report

Karen Hanson – Assistant Director of Community Safety and Street Scene

Report author(s):

Alan Pogorzelec – Business Regulation Manager
Regeneration and Environment
01709 254955, alan.pogorzelec@rotherham.gov.uk

Ward(s) Affected

All wards

Executive Summary

A representation has been received on behalf of members of the Rotherham Hackney Carriage Association requesting a rise in the metered fares currently being charged in hackney carriage vehicles.

In addition, the association are requesting an additional multiplier to be applied when carrying more than four passengers, and an increase of the soiling charge.

The tariffs are set by the Council in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 – this function has been delegated to the Licensing Board.

Recommendations

- That the requested increase in tariffs 1, 2 and 3 be considered and if appropriate approved.
- That the requested introduction of a 'large group surcharge' be considered and if appropriate approved.
- That the Licensing Board authorise Council officers to advertise the any changes in the tariffs in accordance with Section 65(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976.
- That Licensing Board delegate the authority to approve the final tariffs to a Sub-Committee of the Licensing Board.

List of Appendices Included

- Appendix 1 - Current Hackney Carriage Tariffs
- Appendix 2 - Proposed Hackney Carriage Tariffs

Background Papers

- None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Not applicable.

Council Approval Required

No.

Exempt from the Press and Public

Not exempt.

Title (main report)

Proposal to increase Hackney Carriage Tariffs

1. Recommendations

- 1.1 That the requested increase in tariffs 1, 2 and 3 be considered and if appropriate approved.
- 1.2 That the requested introduction of a 'large group surcharge' be considered and if appropriate approved.
- 1.3 That the Licensing Board authorise Council officers to advertise the any changes in the tariffs in accordance with Section 65(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.4 That Licensing Board delegate the authority to approve the final tariffs to a Sub-Committee of the Licensing Board.

2. Background

- 2.1 A representation has been received on behalf of members of the Rotherham Hackney Carriage Association requesting a rise in the metered fares currently being charged in hackney carriage vehicles.
- 2.2 In addition, the association are requesting an additional multiplier to be applied when carrying more than four passengers, and an increase of the soiling charge.
- 2.3 The tariffs are set by the Council in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 – this function has been delegated to the Licensing Board.

3. Key Issues

- 3.1 The current and proposed tariffs are detailed in Appendices 1 and 2.
- 3.2 The request was received by the council on 16th January 2017, and was made by Mr Tariq Sadiq as Chair of the Rotherham Hackney Carriage Association.
- 3.3 The revised tariffs represent the costs that passengers must pay when taking a journey in a Hackney Carriage, and are considered by the Association to be a fair balance for passenger and licence holder alike.
- 3.4 The current tariffs were set in 2007. Since this time, the cost of fuel, insurance and vehicle servicing has increased significantly. Fuel alone has increased by around 9% since 2007 (according to the AA Fuel Price Report). Licence holders are therefore requesting this increase to cover running costs and allow them to see sufficient return for their business.

- 3.5 The increase in tariffs will see the following charges being paid customers:

Tariff 1

The current charge for first mile is £3.60, with each additional mile costing the passenger £1.20. This will increase to £3.80 for the first mile (an increase of 5.6%), and £1.40 for each additional mile thereafter (an increase of 16.7%).

Tariff 2

The current charge for first mile is £3.80, with each additional mile costing the passenger £1.40. This will increase to £4.00 for the first mile (an increase of 5.3%), and £1.60 for each additional mile thereafter (an increase of 14.3%).

Tariff 3

The current charge for first mile is £6.40, with each additional mile costing the passenger £1.50. This will increase to £6.60 for the first mile (an increase of 3.1%), and £1.70 for each additional mile thereafter (an increase of 13.3%).

- 3.6 In addition to the above, the trade are also requesting the ability to activate an additional surcharge in the event that more than four passengers are being carried in the vehicle. This surcharge would comprise of a multiplier of 1.5 being applied to whichever tariff is in operation, and would be applied for the whole of the fare if more than four passengers are present in the vehicle during any part of the journey. This additional surcharge would be activated manually by the driver.
- 3.7 The trade have requested that the current soiling charge is increased from £25 to £45. This charge is paid by the customer in the event that a passenger is sick, or spills food or drink in the vehicle. In the event that this happens, the vehicle must be taken off the road and cleaned before it can operate as a licensed vehicle. The trade believe that the current charge of £25 is insufficient to cover the cost of both an interior valet and the associated "down time".
- 3.8 Any change in the proposed tariffs must be advertised in the local press, this will take place following agreement of the tariffs by the Licensing Board. Should any comments be received then these will need to be considered prior to the tariffs being implemented. Final approval of the fees will need to be confirmed by the Licensing Board (or Licensing Board Sub-Committee).
- 3.9 On implementation, the meters fitted in Hackney Carriages will require reprogramming – this activity will be undertaken by specialist meter programmers under supervision from licensing officers, and officers will

verify the accuracy of the meter following reprogramming. The costs associated with the reprogramming of the meters will be met by the licence holder.

3.10 The proposed tariffs will only apply to Hackney Carriages licensed by Rotherham MBC. Private Hire Vehicles licensed by Rotherham MBC are at liberty to set their tariffs at whatever level they deem appropriate.

4. Options considered and recommended proposal

4.1 Only one option is proposed, and this is detailed above.

5. Consultation

5.1 A notice will be placed in the local press allowing 28 days for comments regarding the proposed tariffs to be submitted to the council.

5.2 Any comments received will be assessed and a final report submitted to a meeting of Licensing Board (or Licensing Board Sub Committee) for approval.

6. Timetable and Accountability for Implementing this Decision

6.1 Once the proposed tariffs are agreed, they will be communicated to the local licensed trade representatives by email. In addition, a notice will be placed in the local press.

6.2 The trade and members of the public will be given a period of 28 days within which to comment on the proposed fees, it is anticipated that this process will be completed by mid-March 2017.

6.3 Subject to any comments that are received, the fees will be brought before the Licensing Board (or Sub-Committee) prior to the end of March 2017 for final agreement of the fees.

6.4 The revised fees will be introduced with effect from 1st April 2017.

7. Financial and Procurement Implications

7.1 Costs will be incurred by the service in the advertisement of the fees in the local press, and the production of revised tariff cards. These costs will be met using the existing service budget.

7.2 The costs associated with the introduction of the new tariffs, and the reprogramming of the meters, will be met by the individual hackney carriage drivers.

8. Legal Implications

8.1 When setting tariffs, the Council must adhere to the statutory process that is detailed in legislation. Failure to do this may lead to the Council being challenged which may result in reputational and / or financial damage.

9. Human Resources Implications

9.1 There are no specific implications for children, young people or vulnerable adults introduced by this report.

10. Implications for Children and Young People and Vulnerable Adults

10.1 There are no specific implications for children, young people or vulnerable adults introduced by this report.

11. Equalities and Human Rights Implications

11.1 There are no specific equalities or human rights implications introduced by this report.

12. Implications for Partners and Other Directorates

12.1 There are no specific implications for partners and other directorates introduced by this report.

13. Risks and Mitigation

13.1 Setting the tariffs excessively high may cause fewer people to use hackney carriages, and it has been suggested that this may result in an increased temptation for drink driving.

13.2 Fewer people using hackney carriages may also lead to difficulties in clearing the town centre on a Friday and Saturday evening. This may lead to an increase in disorder. However, the proposed rates compare favourably with those in the rest of the region, and are invariably lower than private hire tariffs, and it is felt that the impact of the increased tariffs would be negligible.

13.3 There is a belief that a reduction in the number of hackney carriages will increase the likelihood of private hire drivers illegally plying for hire.

14. Accountable Officer(s)

Alan Pogorzelec – Business Regulation Manager
Regeneration and Environment

01709 254955, alan.pogorzelec@rotherham.gov.uk

This report is published on the Council's website or can be found at:-

<http://moderngov.rotherham.gov.uk/ieDocHome.aspx?Categories=>

Appendix 1 – Current Hackney Carriage Tariff

| <u>Tariff 1</u> | | £ |
|-----------------|--|------|
| 1 | Distance | |
| | For the first 1/12 th mile | 2.50 |
| | Subsequently for each 1/12 th mile or uncompleted part thereof | 0.10 |
| 2 | Waiting time | |
| | For each period of one minute or uncompleted part thereof | 0.20 |
| <u>Tariff 2</u> | | |
| 1 | For hirings between 2200hrs and 0600hrs and Sundays and Bank Holidays (excluding Christmas Day, Boxing Day and New Year's Day) for the first 1/14 th mile | 2.50 |
| | Subsequently for each 1/14 th mile or uncompleted part thereof | 0.10 |
| 2 | Waiting time | |
| | For each period of one minute or uncompleted part thereof | 0.20 |
| <u>Tariff 3</u> | | |
| 1 | For hirings between 1700hrs on 24 th December to 0500hrs on 27 th December, and 1700hrs on 31 st December to 0500hrs on 2 nd January for the first 1/15 th mile | 5.00 |
| | Subsequently for each 1/15 th mile or uncompleted part thereof | 0.10 |
| 2 | Waiting time | |
| | For each period of one minute or uncompleted part thereof | 0.20 |

Additional Charges

For the purpose of extra charges hereinafter authorised the following days in each year are classified as Bank Holidays:-

| | | |
|----------------|----------------|---------------------|
| New Year's Day | Good Friday | Easter Monday |
| May Day | Spring Holiday | Late Summer Holiday |
| Christmas Day | Boxing Day | |

All meters are Calendar controlled so the amount displayed will be the amount to be paid by the customer, all Tariffs will be charged automatically by the meter.

Soiling Charge £25.00

Appendix 2 – Proposed Hackney Carriage Tariff

| | | |
|-----------------|--|--------------------|
| <u>Tariff 1</u> | | £ |
| 1 | Distance For the first <u>1/7th</u> mile | <u>2.70</u> |
| | Subsequently for each <u>1/7th</u> mile or uncompleted part thereof | <u>0.20</u> |
| 2 | Waiting time For each period of one minute or uncompleted part thereof | 0.20 |
| <u>Tariff 2</u> | | |
| 1 | For hirings between 2200hrs and 0600hrs and Sundays and Bank Holidays (excluding Christmas Day, Boxing Day and New Year's Day) for the first <u>1/8th</u> mile | <u>2.80</u> |
| | Subsequently for each <u>1/8th</u> mile or uncompleted part thereof | <u>0.20</u> |
| 2 | Waiting time For each period of one minute or uncompleted part thereof | 0.20 |
| <u>Tariff 3</u> | | |
| 1 | For hirings between 1700hrs on 24 th December to <u>0600</u> hrs on 27 th December, and 1700hrs on 31 st December to <u>0600</u> hrs on 2 nd January for the first <u>1/9th</u> mile | 5.00 |
| | Subsequently for each <u>1/9th</u> mile or uncompleted part thereof | <u>0.20</u> |
| 2 | Waiting time For each period of one minute or uncompleted part thereof | 0.20 |

Additional Charges

For the purpose of extra charges hereinafter authorised the following days in each year are classified as Bank Holidays:-

| | | |
|----------------|----------------|---------------------|
| New Year's Day | Good Friday | Easter Monday |
| May Day | Spring Holiday | Late Summer Holiday |
| Christmas Day | Boxing Day | |

All meters are Calendar controlled so the amount displayed will be the amount to be paid by the customer, all Tariffs will be charged automatically by the meter.

Soiling Charge £45.00

Large group surcharge Relevant tariff multiplied by 1.5

(This charge is to be applied in cases where there are more than four passengers present in the vehicle at any one time – the multiplier will be applied to the whole of the final fare as stated on the meter).

| | | |
|-----------------|---|---|
| Tariff 1 | - | first mile £3.90, each subsequent mile £1.40 |
| Tariff 2 | - | first mile £4.20, each subsequent mile £1.60 |
| Tariff 3 | - | first mile £6.60, each subsequent mile £1.80 |

Summary Sheet

Council Report

Licensing Board 20th February 2017

Title

Proposed amendments to certain fees charged in relation to vehicle licences

Is this a Key Decision and has it been included on the Forward Plan?

This is not a key decision.

Director Approving Submission of the Report

Karen Hanson – Assistant Director of Community Safety and Street Scene

Report author(s):

Alan Pogorzelec – Business Regulation Manager
Regeneration and Environment
01709 254955, alan.pogorzelec@rotherham.gov.uk

Ward(s) Affected

All wards

Executive Summary

Compliance tests in relation to licensed vehicles are currently undertaken on behalf of the council by Essential Fleet Services (EFS). The testing is delivered as part of the Corporate Fleet Management Contract, and the prices charged for the testing of vehicles are specified in that contract.

The Fleet Management Contract was recently due for renewal and following a comprehensive procurement process, the contract with EFS was renewed. As part of this renewal, the fees charged by EFS in relation to vehicle testing were revised. This report provides further detail on this revision, and seeks Member approval to commence the process of introducing the fees in Rotherham.

Recommendations

- That Members approve the proposed licensed vehicle testing fees.

- That Members direct officers to undertake the necessary consultation with the hackney carriage and private hire trade associations and place a notice in the local press outlining the proposed fee increases in relation to vehicle test fees.
- That a further report be presented for consideration and determination of the private hire / hackney carriage vehicle and private hire operator fees at the next meeting of the Licensing Board (or Licensing Board Sub-Committee) following the end of the consultation period.
- That Licensing Board delegate the authority to approve the final fees to a Sub-Committee of the Licensing Board.

List of Appendices Included

Appendix 1 - Table of proposed fees in relation to vehicle testing

Background Papers

- None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Not applicable.

Council Approval Required

No.

Exempt from the Press and Public

Not exempt.

Title (main report)

Proposed amendments to certain fees charged in relation to vehicle licences

1. Recommendations

- 1.1 That Members approve the proposed licensed vehicle testing fees.
- 1.2 That Members direct officers to undertake the necessary consultation with the hackney carriage and private hire trade associations and place a notice in the local press outlining the proposed fee increases in relation to vehicle test fees.
- 1.3 That a further report be presented for consideration and determination of the private hire / hackney carriage vehicle and private hire operator fees at the next meeting of the Licensing Board (or Licensing Board Sub-Committee) following the end of the consultation period.
- 1.4 That Licensing Board delegate the authority to approve the final fees to a Sub-Committee of the Licensing Board.

2. Background

- 2.1 Compliance tests in relation to licensed vehicles are currently undertaken on behalf of the council by Essential Fleet Services (EFS). The testing is delivered as part of the Corporate Fleet Management Contract, and the prices charged for the testing of vehicles are specified in that contract.
- 2.2 The Fleet Management Contract was recently due for renewal and following a comprehensive procurement process, the contract with EFS was renewed. As part of this renewal, the fees charged by EFS in relation to vehicle testing were revised. This report provides further detail on this revision, and seeks Member approval to commence the process of introducing the fees in Rotherham.
- 2.3 When making an appointment for a vehicle test to be carried out, licence holders / applicants must pay the appropriate fee to the council, EFS then invoice the council at the end of each month for an amount that covers the cost of all tests undertaken during that month.
- 2.4 The fees that are charged to the council are passed on in full to the licence holder / applicant. The council does not add a percentage on to the fees that it is charged by EFS (i.e. the costs incurred by the council are passed directly on to the applicant / licence holder).
- 2.5 As the fees levied by EFS are an integral part of the vehicle licence fee, the council is required to place a notice in the local press regarding any proposed amendment to the fee – this is to allow a period of time for the interested parties to comment on the proposal and for their views to be

taken into consideration prior to any amendment being made to the fees that are charged.

3. Key Issues

- 3.1 The fees charged by EFS (and that are subsequently passed on to licence holders / applicants) are detailed in Appendix 1 to this report, along with details of the fees that are currently charged.
- 3.2 It is proposed that the current fees are amended to those detailed in Appendix 1, and that the revised fees should take effect from 1st April 2017.
- 3.3 In addition to the testing fee, the council also charges a fee associated with the processing of the licence application, this fee is currently £112. There is no proposal to amend this fee at the present time, however the council are currently in the process of undertaking a full review of all discretionary licensing fees, and amendments are likely to be made to fees as a result of this. Further detail on this proposal will be provided in a future report.
- 3.4 The council also charges for the provision of a vehicle licence plate, the fee includes the provision of the plate and associated equipment, the administration of the plate process, and the costs associated with the production of the plate.
- 3.5 The fee for a plate is currently set at £32. Following a review and streamlining of the production process and renegotiation in relation to the provision of the materials / equipment required for the production of the plate, it has been possible to reduce this fee to £19. A plate will be issued following each scheduled vehicle inspection. Plate brackets will also be available; the charge for these will remain unchanged at £16.
- 3.6 Should these fees be introduced as proposed then the total amount payable by applicants would be as follows:
 - Amount payable on initial application: £176

This includes the administration fee, the cost of the test and one vehicle plate (including fixings, but excluding bracket).
 - Amount payable per additional test: £64

This includes the cost of the test and the cost of one vehicle plate (including fixings, but excluding bracket).
- 3.7 Should a vehicle fail the compliance test, there is the opportunity for a retest. There is currently no charge for the first retest (subject to certain conditions), with a charge of £37 being levied for a second retest. It is proposed that a fee of £25 is introduced for all retests.

3.8 The standards required during the Council's compliance test are higher than those set by the MOT regulations. As a result of this, the Council has been given an authority by the Driver and Vehicle Licensing Agency to issue a Certificate of Compliance should the vehicle pass the full compliance test (after a retest if necessary). The Certificate of Compliance replaces the need for an MOT certificate. However, many drivers wish to maintain the MOT history of their vehicle, and so for the payment of a fee of £10, Essential Fleet Services will issue an MOT certificate to the licence holder / applicant following the successful completion of the compliance test. This fee is payable directly to Essential Fleet Services (the council has no involvement in this process).

3.9 All other fees charged in relation to vehicle licences remain unchanged.

4. Options considered and recommended proposal

4.1 Only one option is put forward for consideration, and it is recommended that the amended fees are adopted.

5. Consultation

5.1 Consultation will take place with the private hire and hackney carriage trades will take place in relation to the setting of the fees for vehicle licences. In addition, a notice will be placed in the local press allowing 28 days for comments regarding the proposed fees to be submitted to the council.

5.2 Any comments received will be assessed and a final report submitted to a meeting of Licensing Board (or Licensing Board Sub Committee) for approval.

6. Timetable and Accountability for Implementing this Decision

6.1 Once the proposed fees are agreed, they will be communicated to the local licensed trade representatives (by email and in a formal meeting). In addition, a notice will be placed in the local press.

6.2 The trade and members of the public will be given a period of 28 days within which to comment on the proposed fees, it is anticipated that this process will be completed by mid-March 2017.

6.3 Subject to any comments that are received, the fees will be brought before the Licensing Board (or Sub-Committee) prior to the end of March 2017 for final agreement of the fees.

6.4 The revised fees will be introduced with effect from 1st April 2017.

7. Financial and Procurement Implications

- 7.1 The awarding the Corporate Fleet Management Contract to Essential Fleet Services was done after a comprehensive procurement and tendering process.
- 7.2 Failure to recover an appropriate level of revenue from licensing fees would result in the cost of service provision being greater than the income received. This would mean the service could not be delivered in budget which could lead to a reduction in the levels of services provided, especially in terms of enforcement.
- 7.3 Local Authorities can only set fee levels (where they are non-statutory and not prescribed) which are reasonable and proportionate to the costs incurred in providing a licensing service, in terms of administration processes and enforcement responsibilities.
- 7.4 The setting of fees as part of the budget setting process is consistent with the Corporate Plan's cross cutting themes of sustainable development and fairness as it ensures the delivery of a cost effective licensing service. It also ensures that the Council continues to maintain its statutory functions and undertakes enforcement to support the delivery of safe and sustainable communities in Rotherham.

8. Legal Implications

- 8.1 Failure to recover funding sufficient to meet the costs of the service could result in the section failing to deliver its statutory functions. The setting of fees, as part of the budget setting process, forms part of the Councils Service and Financial Planning framework which supports the delivery of cost effective and efficient services.
- 8.2 Failure of the licensing service to effectively implement and administer the requirements of the council's policy may result in a legal challenge being made against the council.

9. Human Resources Implications

- 9.1 None.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 Both the Jay report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Corporate Governance Inspection led by Louise Casey CB identified issues, amongst which was the importance of having an effective taxi licensing service.

10.2 In order to ensure the Council's Licensing Service is effective, fit for purpose, and has addressed the concerns raised in Louise Casey's report; the following outcomes must be demonstrated:

- All licence holders are "fit and proper" to hold licences.
- Trained decision makers must make high quality, appropriate and timely decisions that protect the public from risk of harm.
- The Licensing Service uses all available statutory powers appropriately, proactively and reactively, to disrupt criminal activity (including CSE and related activity).
- The licensing team must consistently provide high quality, timely processing of licensing applications.
- The Council's Private Hire and Hackney Carriage Licensing Policy will be effectively implemented.

10.3 In order to address this, the service has developed a performance management framework and improvement plan to provide assurance that the outcomes identified above are achieved.

10.4 At the heart of the new policy, service improvement plan and the performance framework lies a commitment to the protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder. The effective implementation of the licensing policy and the standards that it contains plays an important part in the protection of children and vulnerable people in Rotherham.

11. Equalities and Human Rights Implications

11.1 In undertaking its licensing function, the Council must comply with relevant legislative requirements including the Human Rights Act 1998. This obligation extends to those organisations providing a service on behalf of the Council (such as EFS).

11.2 Adherence to these requirements is assured by means of officer awareness, observation, individual case reviews and review of both customer satisfaction and complaints received into the service. In addition, those affected by licensing decisions have the legal right to challenge that decision in the Magistrates Court.

12. Implications for Partners and Other Directorates

12.1 None.

13. Risks and Mitigation

13.1 Failure of the Council to effectively discharge its licensing function may compromise public safety.

13.2 Responsibility for ensuring compliance with the policy rests with team and service management, with appropriate overview and scrutiny by Commissioner Ney and members of the Licensing Board.

14. Accountable Officer(s)

Alan Pogorzelec – Business Regulation Manager
Regeneration and Environment
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Appendix 1 – Table of proposed fees

| Service / item description | Current charge | Proposed charge |
|---|-----------------------|------------------------|
| Application fee for 12 month licence | £112 | £112 |
| Licensed vehicle compliance test | £66 | £45 |
| Exceptional condition assessment (including compliance test) | £66 | £45 |
| First retest | No charge | £25 |
| Second retest | £37 | £25 |
| Missed appointment fee (full test) | £50 | £45 |
| Missed appointment fee (retest) | £37 | £25 |
| Issue of MOT test certificate (if required) – payable directly to EFS | n/a | £10 |
| Issue of licensed vehicle plate | £32 | £19 |
| Issue of plate bracket | £16 | £16 |
| Hackney Carriage Doors Signs (per sign) | £7 | £7 |
| Copy of paper licence | £18.50 | £18.50 |
| Approval of vehicle advertisement | £38 | £38 |
| Approval of trailer for attachment to vehicle | £37 | £37 |