

Summary Sheet

Council Report

Licensing Board 30th October 2017

Title

Taxi and Private Hire Licensing - Miscellaneous Amendments to Working Practices

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 – Licensing Manager
Regeneration and Environment
01709 254955, alan.pogorzelec@rotherham.gov.uk

Ward(s) Affected

All wards

Executive Summary

In order to facilitate the effective administration of licensing processes, the Licensing Manager has proposed a number of amendments to current working practices. This report details those proposals and seeks the Licensing Board agreement to introduce the proposals with immediate effect.

Recommendations

- That the Licensing Board approve the proposed amendments to current working practices.

List of Appendices Included

- None

Background Papers

- Rotherham MBC Hackney Carriage and Private Hire Licensing Policy

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Not applicable.

Council Approval Required

No.

Exempt from the Press and Public

Not exempt.

Taxi and Private Hire Licensing - Miscellaneous Amendments to Working Practices

1. Recommendations

- 1.1 That the Licensing Board approve the proposal that officers should not refer applications for driver licences to the Licensing Board unless all elements of the application process have been satisfactorily completed.
- 1.2 That the Licensing Board approve the proposal that any application that has been pending for in excess of 12 months is declared void and the applicant issued with an appropriate refund and their application abandoned.

2. Background

- 2.1 The administration and enforcement of the Council's Hackney Carriage and Private Hire Licensing Policy is underpinned by a series of working processes within the Council's Licensing team.
- 2.2 This report seeks the agreement of the Licensing Board to amend two existing working processes in relation to:
 - 2.2.1 The consideration of applications prior to the completion of all elements of the application process.
 - 2.2.2 The processing of applications that have been pending for a prolonged period of time.

3. Key Issues

- 3.1 Consideration of applications prior to the completion of all elements of the application process.
 - 3.1.1 Current practice allows applications to be referred to the Licensing Board before all mandatory elements of the application process have been completed.
 - 3.1.2 This may occur if an applicant has criminal convictions (for example) and wishes to determine whether the convictions will prevent them from being issued with a licence, prior to them undertaking the higher cost elements of the application (typically the BTEC and Medical Examination).
 - 3.1.3 Whilst this approach may save new applicants the cost of undertaking higher cost elements (typically around £450 - £500) only to find that they are refused a licence, it is considered that this approach is not compatible with the national licensing framework.
 - 3.1.4 The national licensing framework allows applicants that are aggrieved by a Council decision to refuse their application to appeal to the Magistrates Court. The Magistrates Court may choose to uphold the appeal – effectively granting the application.

- 3.1.5 If the applicant has not completed all elements of the application process then there is a risk that the licence would be granted by the Magistrates without the need for the applicant to undergo these elements of the application process.
 - 3.1.6 It is therefore proposed that, in order to protect the Council from the possibility of unsatisfactory applicants being issued with licences, applications are only referred to the Licensing Board if all elements of the application process have been satisfactorily completed. This approach will also allow the Licensing Board to make a complete assessment of an applicant's fitness and propriety during the determination of the application.
- 3.2 Applications that have been pending for a period in excess of 12 months.
- 3.2.1 There are a small number of applications currently showing as pending on the Licensing system that have not been progressed despite being made over 12 months ago.
 - 3.2.2 The application process includes a number of checks in order to assess an applicant's fitness and propriety, however these checks will be outdated in relation to applications that have been outstanding for a significant period of time. This may mean, for example, that medical certification, driving licence history, driver knowledge and standard of driving no longer meet the requirements that would be expected of a licensed driver and could.
 - 3.2.3 It is considered that the public could be at risk should a licence be issued to applicants who have not provided recent evidence that they meet the Council's requirements.
 - 3.2.4 It is therefore proposed that applications that have remained "stale" for a period in excess of 12 months should be rejected and an appropriate refund issued to the applicant (this is required by law).

4. Options considered and recommended proposal

- 4.1 The recommendations detailed above are the only options that have been considered and are the recommended proposal.

5. Consultation

- 5.1 There is no requirement for statutory consultation in relation to these proposals, however they will be brought to the attention of the licensed trade representatives for their information and comment.
- 5.2 Any comments received will be assessed and if necessary brought back to the Licensing Board for consideration (this will be undertaken in agreement with the Chair and Vice Chair of the Licensing Board).

6. Timetable and Accountability for Implementing this Decision

6.1 If agreed, these proposals will be introduced with immediate effect.

7. Financial and Procurement Implications

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

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 There are no Human Resources implications introduced by the 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.

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; a number of outcomes must be demonstrated. The outcomes include:

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

10.2 It is considered that the proposals detailed within this report support the above outcomes.

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 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 It is considered that the proposals referred to in this report will facilitate the effective discharge of the Council's licensing function and support the effective application of the Hackney Carriage and Private Hire Licensing Policy.

14. Accountable Officer(s)

- 14.1 Alan Pogorzelec – Licensing Manager
Regeneration and Environment
01709 254955, alan.pogorzelec@rotherham.gov.uk

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