

Review of Taxi Licensing

SUMMARY

- 1.1 The Cabinet Member for Regulatory Services proposes to instruct officers to undertake a review of the taxi licensing sub-committee decision making processes and procedures. Specifically, officers will be asked to consider and, if viable, propose an administrative scheme for licence applications, and for determining such applications, to include the renewal of hackney carriage and private hire licences. Any alternative scheme must satisfy the requirement for consistency, fairness and transparency, as required by the Regulators Code.
- 1.2 This report sets out, in broad terms, the remit of the mandate to officers and the recommendations necessary to give effect to them. Two fundamental aspects of those terms include instructions to secure that the licensed trade is consulted on the proposals, and for an equality impact assessment (EIA) of the proposals, to be carried out. The outcome of the consultation process and the EIA will then be brought back to Council to be considered prior to a final decision to introduce the administrative scheme being made.
- 1.3 It is of course an established principle of licensing law and practice that where significant changes to a licensing system, such as those being proposed within this report, are sought to be introduced, consultation with stakeholders must take place without which any change initiative becomes vulnerable to a successful judicial challenge. It is proposed to go out to consultation with the trade and public on the proposals for a period of twelve weeks once all the key elements of the proposal have been fully developed.
- 1.4 Council will also be aware that the Jay and Casey reports into child sexual exploitation, the latter in particular identifying a nation-wide common thread between taxi licensing and child sexual exploitation, have had a profound and continuing impact on licence holders across the country. The Council here in Derby has already introduced a number of changes to address a number of identified shortcomings. However, more can and still needs to be done to increase awareness within the trade, and place safeguarding at the forefront of existing and aspiring licence holders minds.

RECOMMENDATION

- 2.1 To approve constitutional changes to transfer the Licensing Committee's taxi licensing policy-making powers, to determine the principles of an administrative licensing scheme, to Council (as set out in paragraph 4.1).
- 2.2 To approve consultation on the introduction of an administrative licensing system for the council in accordance with:
 - (a) the principles of the 'First Proposal', details of which are set out in paragraph 4.3 of this report;
 - and/or
 - (b) the principles of the 'Second Proposal', details of which are set out in paragraph 4.4 of this report.
- 2.3 To delegate to the Director of Communities, Environment & Regulatory Services, in consultation with the Cabinet Member for Regulatory Services, authority to finalise the consultation details that will form the basis of the exercise .
- 2.4 To approve officers undertaking a consultation exercise on the proposed changes based on the draft timetable set out in Appendix 2.
- 2.5 To note that the results of the consultation exercise will be considered by Council for a final decision in the future to introduce, with effect from 28 November 2016 (subject to the consultation process), a new administrative decision making process after the consultation exercise has been completed, taking into account the outcome of consultation and, if necessary and/or applicable, the outcome of an equality impact assessment.

REASONS FOR RECOMMENDATIONS

- 3.1 To give effect to the Cabinet Member for Regulatory Services' strategic initiative of reviewing, so as to make more consistent, fair and transparent, the current system for determining applications for, and renewals of, hackney carriage and private hire licences.
- 3.2 To secure that the need for consultation, a necessary requirement to assist with validating any significant change to licensing administration processes, is factored into the measures necessary to give effect to the instructions of the Cabinet Member for Regulatory Services.

SUPPORTING INFORMATION

- 4.1 The existing delegations are vested in officers by Licensing Committee, in order for the changes proposed by this review to be accepted and introduced, a decision by Council to divest the Licensing Committee of its taxi licensing policy-making powers, within the limits set out in recommendation 2.1 of this report, is required. This forms the background to the first of the recommendations this report proposes.
- 4.2 This report proposes instructing officers to go out to consultation on the basis of either or both of two alternative options, the broad details of which are set out below as the First Proposal (paragraph 4.3) and the Second Proposal (paragraph 4.4). The aim of both would be to identify and implement a consistent, fair and transparent licensing administration system that is fit for purpose, while still achieving the statutory target of safeguarding the interest of the public.

The First Proposal

- 4.3 This relies on the introduction of an administrative system for determining licensing applications and renewals based on established current taxi licensing sub-committee processes, but with officers standing in the members' stead. It will replace the current system of member-based taxi licensing sub-committee hearings, and will be chaired by the officer delegated to carry out the role, should this be resolved by Council as the preferred option. The existing member guidelines will be updated to make it fit for application by officers. Changes to the existing scheme of delegations from Licensing Committee to officers will also be required to give effect to the proposal.

The Second Proposal

- 4.4 This relies on the development of proposals with the Cabinet Member for Regulatory Services that are consistent, fair and transparent, and which will then be consulted upon with the trade and the public as primary stakeholders of the Council's licensing function. A commitment from Council to this proposal will provide officers with the confidence to review, develop and present more detailed best practice approaches to dealing with the administration of licensing, in the knowledge of other licensing authorities' experiences. This may include, but is not necessarily limited to, considering the introduction of a new penalty points system, the application of a minimum-requirement application threshold, and housekeeping around the current imposition of age limits. Having regard also to the Jay and Casey reports which were referred to in paragraph 1.4, officers will be tasked with securing that the consultation process also includes proposals requiring all new licence applicants to successfully undertake approved safeguarding training, and for existing drivers and operators to undertake similar training prior to renewal of their licences.
- 4.5 Subject to agreeing the principle of either or both proposals being consulted upon, the existing system of member sub-committee meetings will remain in place pending the formulation of, consultation upon and the submission of, final proposals for adoption by Council in November.

OTHER OPTIONS CONSIDERED

5.1 None.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Lucie Keeler, Solicitor Amanda Fletcher TBC n/a John Tomlinson and Janie Berry David Walsh
For more information contact: Background papers: List of appendices:	Michael Kay, Head of Environmental Health and Licensing - 01332 641940 michael.kay@derby.gov.uk Olu Idowu, Head of Legal Services – 01332 643615 olu.idowu@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Proposed Implementation Timeline

IMPLICATIONS

Financial and Value for Money

- 1.1 Any proposals that may arise will need to be reviewed to ensure the robustness of the funding proposals needed to support the initiative.

Legal

- 2.1 The proposals will need to be reviewed pre-consultation to ensure that its principles align with the statutory provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Acts.

Personnel

- 3.1 A review of any additional staffing resources that may be required to meet the finalised proposals will need to be carried out at a later date.

IT

- 4.1 A review of any additional IT resources that may be required to meet the finalised proposals will need to be carried out at a later date.

Equalities Impact

- 5.1 The proposals will need to be supported by an equality impact assessment at the point at which they go out to consultation, the outcome of which would need to be considered by Council prior to a final decision in November.

Health and Safety

- 6.1 None.

Environmental Sustainability

- 7.1 None.

Property and Asset Management

- 8.1 None.

Risk Management

- 9.1 There would be significant reputational risk to Council in devising and/or approving

an ineffectual scheme.

Corporate objectives and priorities for change

10.1 The proposals set out in this report address the corporate objectives of:

- protecting vulnerable children, young people, adults and older people
- promoting health and well-being
- being more commercial
- delivering our services differently

10.2 The proposals also meet the Council's core vision of being 'safe, strong and ambitious', and the aim to be a 'modern, flexible and resilient Council'.

Appendix 2

	Activity	Target Date
1.	Report published in Council agenda	10 May 2016
2.	Council approves change (and potentially sets date for implementation)	18 May 2016
3.	Officers develop scheme	18 May 2016 – 5 July 2016
4.	Draft scheme published in Licensing Committee agenda	6 July 2016
5.	Licensing Committee considers draft scheme	14 July 2016
6.	Report published for Cabinet Member	Week commencing Monday, 18 July 2016
7.	Cabinet Member approves consultation arrangements	25 July 2016
8.	Consultation commences	1 August 2016
9.	Consultation ends (12 weeks)	24 October 2016
10.	Officers finalise changes following consultation	24 October 2016 – 1 November 2016
11.	Final report published for Licensing Committee	2 November 2016
12.	Report considered/approved by Licensing Committee	10 November 2016
13.	Final report published for Council	15 November 2016
14.	Report considered/approved by Council	23 November 2016
15.	Implementation	28 November 2016