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**THE LICENSING AND HEALTH AND SAFETY
ENFORCEMENT COMMITTEE**

TUESDAY 27 NOVEMBER 2012 AT 7.30 PM

COUNCIL CHAMBER, CIVIC CENTRE, HEMEL HEMPSTEAD

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Cllr Bhinder
Cllr G Chapman
Cllr Conway
Cllr Fantham
Cllr Mrs Green (Vice-Chairman)
Cllr R Hollinghurst
Cllr Lawson (Chairman)

Cllr Link
Cllr Peter
Cllr Rance
Cllr Ryan
Cllr Sutton
Cllr Taylor
Cllr Whitman

For further information, please contact Trudi Coston on Tel: 01442 228226, or Email: Trudi.coston@dacorum.gov.uk Information about the Council can be found on our website: www.dacorum.gov.uk

PART I

**Item
no.**

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1. INTRODUCTION

2. MINUTES

To confirm the minutes of the Licensing and Health & Safety Enforcement Committee meeting held on 18 September 2012.

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter, who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw to the public seating area.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Members' Register of Interests or the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interest are defined in Part 2 of the Members' Code of Conduct.

5. PUBLIC PARTICIPATION

An opportunity for members of the public to make statements and ask questions in accordance with the rules on Public Participation

AGENDA ITEM: 6

SUMMARY



Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	27th November 2012
PART:	1
If Part II, reason:	

Title of report:	Driver Licence Verification Checks
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To review the use of the DVLA driver licence verification service for taxi driver licence applicants, and propose use of an alternative service
Recommendations	To require applicants for taxi driver licences to undergo a driving licence verification check through an appropriate agency selected by the council (set out in full at section 4)
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none">The proposal should see this aspect of the current taxi driver application process resolved much quicker and with greater reliability than is currently the case.
Implications:	<u>Financial</u> The proposed check is slightly more expensive than the current option. It is proposed to continue to recharge the cost of the check to applicants as part of the licence application fee. <u>Value for Money</u> Officers believe that the faster response times and the greater level of support offered justify the increased cost.
Risk Implications	No new implications arise as a result of this proposal.
Equalities Implications	No new implications arise as a result of this proposal.

Health And Safety Implications	No new implications arise as a result of this proposal.
Consultees:	n/a
Background papers:	
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. At a meeting on the 25th November 2008, the Licensing Health & Safety Enforcement Sub-Committee resolved to introduce a DVLA Driving Licence check, to be carried out on all applicants for private hire and hackney carriage driver licences (both on first application and on renewal), with effect from the 1st February 2009.
- 1.2. The check is currently carried out directly through the Driver and Vehicle Licensing Agency (DVLA). Applicants are required to complete a data protection mandate, permitting the release of their data. This is then posted to DVLA, who return a printout listing the subject's driving entitlement, licence details, and where applicable, disqualifications or endorsements following offences. Each such check incurs a cost of £5.00, which is recharged in full to applicants.
- 1.3. The printout is matched against the details shown on the driving licence produced by applicants at the time of application, and prevents the fraudulent use of forged, superseded or unendorsed licences in connection with applications.
- 1.4. Since the Council agreed terms with DVLA and commenced use of this system, there has been a steady decline in response times for the return of driver's information, with many checks now taking more than 6 weeks to be returned, leading to considerable delays in the determination of applications for licences. In addition, the level of support offered as part of the service has also decreased – both a fax service for faster responses, and a dedicated telephone enquiry line for resolving issues have recently been discontinued.

2. ALTERNATIVE SERVICES

- 2.1. In recent years a number of commercial companies have begun offering similar services to that provided by DVLA. Although aimed primarily at companies operating vehicle fleets, these services are also used by a number of councils as a direct replacement for the DVLA service. The companies providing these services generally have direct access to the DVLA databases through commercial data links, the costs of which are prohibitive to organisations carrying out a comparatively small number of checks. This does however mean that they can provide electronic access to

driver records in a much quicker time period than the DVLA postal service supports, with data generally being returned via a secure web interface.

- 2.2. It is therefore proposed to discontinue use of the DVLA postal-based system, and switch to an alternative electronic-based system from a commercial provider. Although these generally incur a slightly higher cost, they can be resolved in a much shorter time (indications are that most enquiries are answered within 3 working days), and offer the support services and query resolution that have now been discontinued by DVLA. The switch to an electronic service would also greatly support the current work to move council services to a paperless basis.
- 2.3. The matter has been returned to the Committee as the previous resolution explicitly referred to the DVLA service. If the Committee are minded to accept the proposal, it is suggested that a generic resolution which does not refer to a specific provider is passed. Officers will commit to undertaking a regular review of service providers to ensure that the provider remains the most cost-effective and adheres to agreed service levels.

3. OPTIONS

- 3.1. Discontinuing use of a verification service altogether may expose the Council to fraudulent use of licences as described in paragraph 1.3, potentially putting the public at risk. For this reason, the use of a licence verification service remains highly recommended.
- 3.2. Officers have approached three companies about the service they provide, and believe that the Data Check service provided by Intelligent Data Systems represents the preferred option based on ease of use, support and pricing. Checks carried out via this service would incur a cost of £5.75 (excl VAT).
- 3.3. At present, a single check is undertaken on receipt of an application, with licensed drivers being required to declare any subsequent disqualifications or motoring endorsements during the validity period of their licence under a licence condition. One provider suggested that carrying out annual checks during the validity of a licence would offer an additional degree of protection to the council and the public, by ensuring that unreported disqualifications and endorsements were discovered and appropriate action taken prior to the next renewal. While desirable, it must be pointed out that following a recent case considered by the Sub-Committee and discussed amongst the trade a number of drivers have come forward to declare motoring offences, suggesting a lack of awareness of the declaration requirement rather than any meaningful intent to deceive the council. Annual checks would result in much higher costs, both in terms of payments to the service provider and officer time to inspect and process the results of such checks.
- 3.4. Officers therefore recommend that at this time, the frequency of checks is kept at on application only, with increased publicity to be carried out about the need to report convictions and offences as they occur. Officers will monitor this situation, with a view to returning this matter to committee for reconsideration if it transpires that a significant proportion of motoring offences are not being declared.

4. RECOMMENDATIONS

- 4.1. That, with effect from the 1st January 2013, any applicant for a private hire or hackney carriage driver licence, both on first application and on renewal, shall be required to undergo a driving licence verification check, carried out through the council by an appropriate verification agency. Applicants must give consent to the release of driving licence data as a prerequisite to the consideration of an application;
- 4.2. That officers shall periodically review the performance of the verification company providing this service, considering performance against agreed service levels and pricing in comparison to other service providers;
- 4.3. That the cost of the driving licence verification check be recharged in full to applicants;
- 4.4. That the preceding paragraphs shall supersede the resolution of the Licensing Health & Safety Enforcement Sub-Committee on the 25th November 2008 in respect of DVLA checks.

AGENDA ITEM: 7

SUMMARY



Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	27th November 2012
PART:	1
If Part II, reason:	

Title of report:	Appointment of Hackney Carriage Stands
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To advise of proposals to create two new hackney carriage stands in Hemel Hempstead town centre
Recommendations	<ol style="list-style-type: none">1. To give public notice of the proposed appointment of two new stands, and the revocation of an existing stand, in accordance with statutory requirements;2. To delegate authorisation to confirm the appointment of these stands and the revocation of the existing appointment to the Assistant Director (Legal, Democratic & Regulatory Services) in the absence of objections.
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none">• Appointment will enable enforcement action to be taken in respect of breaches of byelaws and conditions.
Implications:	<u>Financial</u> A proposal to appoint new taxi stands must be advertised in a local newspaper, with an attendant cost. Signage/road marking costs are included within the Highways works program. <u>Value for Money</u> Not applicable.
Risk Implications	None
Equalities Implications	None

Health And Safety Implications	None
Consultees:	Public notice of any proposals to adopt taxi stands must be given, and an opportunity given for any objections to be made
Background papers:	
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. Under section 63 of the Local Government (Miscellaneous Provisions) Act 1976, district councils “may from time to time appoint stands for hackney carriages... in any highway in the district which is maintainable at public expense”, so long as such as the stand would not prevent access to any premises, does not impede the usage of bus stops, stations or depots, and has the consent of the highways authority.
- 1.2. While traffic regulation orders can be used to prevent other vehicle types from stopping in a designated stand, and to authorise the issuance of penalty tickets to vehicles that breach such restrictions, appointment under the 1976 Act must be undertaken in order to enforce local byelaws and conditions, including the requirement for hackney carriages to proceed to an available stand when not in use, and to give effect to the offence at section 64 of the 1976 Act
- 1.3. The Act requires that notice of any proposal to create stands is given to the chief officer of police for the area, and published in at least one local newspaper circulating in the district. Any written objections or representations received in the period of 28 days from publication of the notice must be taken into consideration before a final decision is made.

2. WATERHOUSE STREET

- 2.1. A scheme of highways works were undertaken in September 2012 in Waterhouse Street, Hemel Hempstead, by contractors on behalf of Hertfordshire Highways. The works have seen the provision of a new space for use as a taxi stand adjacent to Bank Court. Hertfordshire County Council have previously passed a traffic regulation order preventing any other type of vehicle (excepting emergency services) from stopping in this space.
- 2.2. It is therefore proposed that the location extending from a point 7 metres south of a point in line with the projected south kerblines of Bank Court southwards for approximately 16 metres to a point 6.5 metres north of a point in line with the projected north kerblines of the access road leading to the rear of Lord Alexander House, be appointed as a Hackney Carriage Stand, to be known as the Waterhouse Street (Bank Court) stand. The

stand will be designated for use 24 hours a day, accommodating up to 3 hackney carriages.

- 2.3. The new stand has replaced another larger stand a short distance away, on the east side of Waterhouse Street adjacent to Lord Alexander House, between a point 4.5 metres south east of a point in line with the projected south east kerbline of the access road leading to Riverside south eastwards for approximately 47 metres to a point 5 metres north of a point in line with the projected north kerbline of the access road leading to Lord Alexander House. This space, which has largely fallen into disuse by hackney carriages, has now been returned to its former usage as a bus stop, and as such it is proposed to revoke the previous appointment of this space as a stand.
- 2.4. The existing 'drop-off' spaces for use by taxis, on the west side of Waterhouse Street adjacent to the Water Gardens and opposite Lord Alexander House, have not been affected by this scheme.

3. HIGH STREET, OLD TOWN

- 3.1. As part of a general scheme of improvement works to High Street, Hemel Hempstead Old Town, expected to take place in February or March 2013 (subject to confirmation), a new night-time taxi stand is to be created outside the Old Town Hall venue. Hertfordshire County Council are expected to publish a draft traffic regulation order in respect of this scheme of works in mid-November 2012.
- 3.2. A precise geographic description of the new stand is not available at the time of writing; however, the stand would extend from a point opposite 31 High Street in a northerly direction for approximately 45 metres, to a point opposite 49 High Street. It is proposed that this site be appointed as a Hackney Carriage Stand, to be known as the High Street (Old Town Hall) stand. The stand will be designated for use from 18:00 hours to 08:00 hours, Monday to Sunday, accommodating up to X hackney carriages.
- 3.3. Outside of the above mentioned hours, the stand would be utilised partly as a loading bay, and partly as a parking bay.

4. RECOMMENDATIONS

- 4.1. That the proposals to appoint new hackney carriage stands under section 63 of the Local Government (Miscellaneous Provisions) Act 1976 on Waterhouse Street (adjacent to Bank Court), Hemel Hempstead, and on High Street (adjacent to the Old Town Hall), Hemel Hempstead; and to revoke the previous appointment of a taxi stand on Waterhouse Street (adjacent to Lord Alexander House), Hemel Hempstead, be notified to the Chief Officer of Police and published in a local newspaper; and
- 4.2. That authority to confirm the appointment of these stands, in the absence of any relevant written objections or representations received within 28 days of the first publication of the notice referred to in the preceding paragraph, be delegated to the Assistant Director (Legal, Democratic & Regulatory). Should objections or representations be received, the matter will be referred back to a future meeting of the Committee for consideration.

AGENDA ITEM: 8

SUMMARY



Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	27th November 2012
PART:	1
If Part II, reason:	

Title of report:	Review of Licensing Enforcement Policy
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To outline proposed amendments to the Council’s Licensing Enforcement Policy, prior to public consultation
Recommendations	To note the proposed revisions to the Licensing Enforcement Policy, to commence public consultation on the revisions, and to report results to a future meeting of the Committee
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> • This policy sets out the principles for licensing enforcement activities, which ensure the legal and safe operation of licensed businesses <p>Dacorum Delivers</p> <ul style="list-style-type: none"> • The revised policy updates a number of sections in light of recent legislative developments and case law, and clarifies a number of delegated authorities.
Implications:	<u>Financial / Value for Money</u> None
Risk Implications	This report relates to a revision of an existing policy, and no new implications arise.
Equalities Implications	This report relates to a revision of an existing policy, and no new implications arise.
Health And Safety Implications	This report relates to a revision of an existing policy, and no new implications arise.

Consultees:	This report proposes public consultation on the policy revisions with the results to be reported to a future Committee meeting for consideration.
Background papers:	DBC Enforcement Statement Draft Licensing Enforcement Policy 2013
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. Dacorum Borough Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. To summarise the principles guiding the exercise of these powers, a licensing enforcement policy has been adopted and published.
- 1.2. Although this document is not formally required under any statutory enactment, it is considered to be a key part of the Council's commitment to the Better Regulation principles – in particular, the transparency and consistency principles. It is also referred to in, and expands upon the contents of, the statutory Statement of Licensing Policy and the Statement of Principles produced by the Council under the Licensing Act 2003 and the Gambling Act 2005.
- 1.3. The current version of the enforcement policy was confirmed by Council on the 24th February 2010, at the same time as a corporate Enforcement Statement was adopted. The current policy was adopted for a three year period, expiring at the end of February 2013.

2. PROPOSED REVISIONS

- 2.1. The draft Licensing Enforcement Policy for the period 1st March 2013 to 28th February 2016 is attached to this report at Annex A.
- 2.2. In compiling the revisions, officers have had regard to the Council's Enforcement Statement, and to recently amended legislation, centrally-issued guidance and case law.
- 2.3. The following paragraphs highlight some of the more significant revisions proposed to the policy:
 - 2.3.1. **Section 1 (Enforcement Principles)**: reconfigured to utilise the principles published by the Better Regulation Executive, and paragraphs have been rearranged and redrafted accordingly.
 - 2.3.2. **Para 2.10 onwards**: the paragraphs relating to cautions have been amended to reflect the revised entitlement. Local authorities may now only issue simple cautions, and in limited circumstances. Formal cautions are no longer issued. The police may issue conditional cautions which, as the name suggests, carry one or more conditions.

- 2.3.3. **Para 2.15 onwards:** Paragraphs have been added to reflect the licensing authority's status as a responsible authority under the Licensing Act 2003, and the powers to make representations and apply for reviews of authorisations.
- 2.3.4. **Para 2.20 onwards:** Paragraphs have been added to reflect the licensing authority's status as a responsible authority under the Gambling Act 2005, and the powers to make representations and apply for reviews of authorisations.
- 2.3.5. **Para 2.24 onwards:** Paragraphs have been added to summarise the powers of suspension, revocation and refusal of taxi related licences. In particular, a new scheme is proposed for the immediate revocation of licences following very serious allegations of misconduct. This is now necessary following a recent court case involving Cardiff City Council, which ruled that the use of the power of suspension as an interim measure is unlawful.
- 2.3.6. **Para 5.3:** Clarified that convictions and cautions may be formally record and reported.
- 2.3.7. **Para 7.5:** Adjusted to reflect the new judicial threshold arrangements for covert directed surveillance authorisations

3. DELEGATION OF ENFORCEMENT POWERS

- 3.1. As part of the consideration of the new policy, the Committee will also be asked to give consideration to delegating a number of powers to officers, to enhance the enforcement powers and tools available. The proposed policy revisions were drafted as if the following delegations had been agreed.
- 3.2. In all cases, Committee will be requested to delegate the power to the Assistant Director (Legal, Democratic & Regulatory), in accordance with the current scheme of delegation. These powers would then be further delegated to other officers as necessary, as indicated below:

Delegated power	Ultimate delegation level
Licensing Act 2003	
To make representations on behalf of the licensing authority in its capacity as a responsible authority in respect of applications under sections 17, 29, 34, 41A, 51, 53A, 71, 84, 86A, 87 or 167 of the Licensing Act 2003	LTL, LEO
To apply for the review of a premises licence under section 51 of the Licensing Act 2003 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing	LTL, LEO
To apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing	LTL, LEO

Gambling Act 2005	
To make representations on behalf of the licensing authority in its capacity as a responsible authority in respect of applications under sections 159, 187, 188, 195, 197, 200 or 204 of the Gambling Act 2005	LTL, LEO
To apply for the review of a premises licence under section 197 of the Gambling Act 2005 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing	LTL, LEO
To initiate reviews of premises licences of a particular class under section 201 of the Gambling Act 2005 on behalf of the licensing authority, and make appropriate supporting representations at the resulting committee hearing(s)	LTL, LEO
Local Government (Miscellaneous Provisions) Act 1976	
To suspend a vehicle's licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976, on the grounds that the vehicle is unfit for use as a hackney carriage or private hire vehicle	LTL, LEO, LSO
To suspend or revoke a vehicle's licence, a driver's licence, or an operator's licence with immediate effect under section 60, 61 or 62 of the Local Government (Miscellaneous Provisions) Act 1976 respectively, on any of the grounds there under, following consultation with the chair or vice-chair of the Licensing, Health, Safety & Enforcement Committee	LTL
To inspect and test a licensed vehicle under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, and to suspend a vehicle's licence under that section where the officer was not satisfied as to the fitness of the vehicle or the accuracy of the taximeter on inspection or test thereof, until such time as any defects have been rectified to the satisfaction of the officer	LTL, LEO

*LTL = Licensing Team Leader
LEO= Licensing Enforcement Officers
LSO = Licensing Support Officers*

4. TIMELINE

4.1. The following timeline is proposed:

Date	Activity
3 rd December 2012	Start of consultation
20 th January 2013	Last date for consultation responses
12 th February 2013	Licensing HSE Committee meeting Consultation results reported back Decision on whether to adopt revisions
1 st March 2013	Any revised policy adopted to take effect

4.2. Consultation will be carried out by publishing details of the proposed revisions on the Council's website, and by direct notification to key statutory partners, and significant local trade associations.

5. RECOMMENDATIONS

- 5.1. That the Committee note the proposed revisions in the draft 'Licensing Enforcement Policy' document and the proposed new delegations set out at section 3 of this report; and
- 5.2. That the Committee instruct officers to commence consultation on the proposals in accordance with the above timeline, and report the results back to the Committee at its meeting on the 12th February 2013.

ANNEX A – DRAFT LICENSING ENFORCEMENT POLICY 2013



AGENDA ITEM: 9

SUMMARY

Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	27th November 2012
PART:	1
If Part II, reason:	

Title of report:	Licensing fees 2013-14
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To outline proposals for licensing application fees in the financial year 2013-14, prior to consultation
Recommendations	To instruct officers to commence public notification and consultation on the proposed fees, and to report results to a future meeting of the Committee
Corporate objectives:	<p>Dacorum Delivers</p> <ul style="list-style-type: none"> The proposed fees have been calculated on a cost recovery basis, and projections show that if the revised fees are adopted the costs of administering licensing schemes should be recovered.
Implications:	<p><u>Financial</u> There will be a cost in adoption of fees, as some will require public notice to be given. The proposed fee amendments are projected to result in an increase in Licensing service revenue of approximately £25-30,000 per annum.</p> <p><u>Value for Money</u> The proposed fees have been calculated on a cost recovery basis, with the aim of ensuring that administrative, processing and certain compliance costs are recovered in full.</p>
Risk Implications	None

Equalities Implications	None
Health And Safety Implications	None
Consultees:	This report proposes public consultation on all of the fees, with the results to be reported to a future Committee meeting for consideration.
Background papers:	Draft Licensing Fees & Charges 2013-14
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. Dacorum Borough Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. A number of these schemes allow the Council to levy an application fee, payable by an applicant for a licence, in order to cover the costs (or a proportion thereof) of the administration of those licences. In some cases, costs are also permitted to cover other aspects of providing the scheme.
- 1.2. The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed regularly (generally annually) to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits are to be carried forward to future years to be redistributed or recouped, as applicable.
- 1.3. For a number of reasons, the fees charged in Dacorum have not been reviewed en masse for several years – for example, the fees charged in respect of taxi drivers and vehicles are unchanged since at least April 2004. Given that inflation alone in this period would account for an average 25% increase in costs, it is hardly surprising that the fees charged no longer accurately reflect the costs of administering the licensing scheme.
- 1.4. There have been a number of recent developments, such as the implementation of the EU Services Directive, and recent court cases such as R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council¹, which have had a significant impact on Council's powers to set and collect fees. Both the legislation and that case have confirmed that, at least for formalities within scope of the Services Directive, the costs of enforcing a licensing regime may not be recovered via fees.

¹[2012] EWHC 1260 (Admin)

- 1.5. It is now proposed to review and set licensing application fees for the financial year 2013-14, and the remainder of this report sets out the specific proposals in this respect.
- 1.6. Moving forward, it is expected that this will become an annual exercise. Due to recent and imminent changes in structure, personnel and procedures within the Licensing section, a number of costs have had to be estimated this year, and these costs will be among the first elements reviewed in subsequent years, to ensure the accuracy of our fees.

2. POWERS TO SET FEES

- 2.1. The table at Annex A summarises the Council's powers to set its fees in respect of licensing applications, and any limitations on those powers.

3. PROPOSALS

- 3.1. A draft list of service-wide proposals for fees and charges, covering the period from 1st April 2013 to 31st March 2014, is appended to this report as Annex B.
- 3.2. Increases are proposed to a number of the fees charged in respect of licensing applications, where the current fee does not currently accurately reflect the costs to the council of processing and determining that application type. However, a number of decreases have also been proposed, where costs are currently below the fee charged – for example, change of taxi vehicle ownership, renewal of home boarding licences, bingo licences, dog breeding establishment licences, and transfers of sex establishment licences.
- 3.3. It is understood that the economic climate for regulated businesses remains challenging at best, and any form of cost increase for those businesses will be unwelcome. Increases have not been suggested lightly, and represent an activity on which the council currently incurs costs significantly greater than the current fee recovered. A number of policies and procedures are currently under review, with further areas to follow in the coming months, with a view to streamlining licensing processes and reducing costs wherever possible, which may in future years enable fees to be reduced.
- 3.4. The following comments are made on specific proposals:

Section 1.1: Where officers have discretionary delegated authority to exempt an applicant from standard condition/policies, but decline to do so, applicants will usually be entitled to challenge that decision by appeal to the Licensing (Sub-) Committee. It is proposed to introduce a fee, payable on the initiation of such a challenge, to limit the number of frivolous requests made, in a similar way to the fee payable to engage a statutory right of appeal to magistrates' courts. Any such fee would be refundable if an appeal was upheld, in whole or in part.

Section 2: We are currently awaiting confirmation of when the power to set fees for alcohol/entertainment applications will be commenced. In the absence of regulations setting out the matters that must be considered in setting these fees, this part of the exercise has not been completed. Should

the powers be commenced in 2013 prior to the annual review of all fees, a separate proposal for these fees will be put to the Committee.

Section 3.1: A discount has been proposed in respect of home boarding establishments, which generally are smaller and carry a lower risk, thus requiring less officer time. However, a limitation on the number of animals being accommodated has also been proposed to ensure that this provision is not abused.

Section 3.2: Separate fees have been proposed for two types of variations. Those applications in respect of an increase in the number of animals or species being kept will generally engage officers and veterinarians, requiring an inspection of the premises to be carried out to ensure suitability. On the other hand, administrative matters (such as a condition permitting the transfer of animals for a temporary exhibition) will generally have a lower impact on service delivery.

Section 3.6: It is believed that these fees have not previously been set, and there are currently no such licences in force in the Dacorum area. As such, fees have been based on estimated costs only, as there is no relevant data against which to benchmark.

Section 4.3: All of these fees had previously been set at 50% of the prescribed maximum amounts on commencement of the licensing scheme, with the exception of bingo licences which had been set at 100%. These have now been adjusted in accordance with the authority's experiences to date. As no track betting, bingo or family entertainment centre licences have been issued to date, these fees have been based upon estimated costs only.

Section 6: A number of policy and procedural changes have either been proposed or are currently being implemented to this licensing area, and where possible the fees have taken those changes into account. However, in a number of cases, it has not been possible to accurately calculate the effect on costs, resulting in estimated costs being used here.

Section 6.3: Previously 3 fee bands were offered here. Amalgamation of the upper two bands has been proposed to more accurately reflect the costs involved in processing such applications, which are not necessarily quantity related, while preserving a cheaper option for the smallest operators (e.g. sole traders).

Section 8.1: Previously, fees were set at different levels for different categories of sex establishment. Given that the costs involved are similar, these have now been equalised across all categories. A separate enforcement component was also set previously – this has now been eliminated, as such an approach is no longer permissible.

4. TIMELINE

4.1. The following timeline is proposed:

Date	Activity
3 rd December 2012	Start of consultation

20 th January 2013	Last date for consultation responses
12 th February 2013	Licensing HSE Committee meeting Consultation results reported back Decision on whether to adopt fee proposals
1 st April 2013	Any revised fees adopted to take effect

4.2. As at least two sections of the proposed fees will require public notice to be given, a general notice will be placed in a local newspaper setting out the proposals and the means for commenting upon them.

5. RECOMMENDATIONS

- 5.1. That the Committee note the proposals in the draft 'Licensing Fees and Charges 2013-14' document; and
- 5.2. That the Committee instruct officers to give the necessary public notices and commence consultation on the proposals in accordance with the above timeline, and report the results back to the Committee at its meeting on the 12th February 2013.

ANNEX A – SUMMARY OF POWERS TO SETT APPLICATION FEES

Section	Area	Power arises from
1.1	General service charges	Various legislation
2.1 – 2.5	Alcohol, entertainment, etc	At present, these fees are prescribed in regulations made by the Secretary of State under the Licensing Act 2003. Section 197A of that Act will allow licensing authorities to set fees locally on a cost-recovery basis, but is yet to be commenced.
3.1	Animal boarding	s.1(2), Animal Boarding Establishments Act 1963 Fee as may be determined by LA.
3.2	Dangerous wild animals	s.1(2)(e), Dangerous Wild Animals Act 1976 Sufficient to meet direct and indirect costs incurred
3.3	Dog breeding	s.3A(2), Breeding of Dogs Act 1973 Reasonable costs incurred in administration and enforcement.
3.4	Pet shops	s.1(2), Pet Animals Act 1951 Fee as may be determined by LA.
3.5	Riding establishments	s.1(2), Riding Establishments Act 1964 Fee as may be determined by LA. Cost of veterinary inspection.
3.6	Zoos	s.15(1), Zoo Licensing Act 1981 Sufficient to cover the reasonable expenditure incurred by the authority. Special provisions for inspections, closures, and direction making.
4.1, 4.3	Gambling notices, premises licences	Set on a cost recovery basis by the authority, up to maximum amounts prescribed in regulations made under the Gambling Act 2005. No fee chargeable for OUN's
4.2, 4.4	Gaming permits, lotteries	Prescribed in regulations made by the Secretary of State under the Gambling Act 2005
5.1 – 5.2	Charity collections	No fees chargeable
6.1	HC/PH drivers	s.53(2), Local Gov't (Misc. Provisions) Act 1976 Recovering the costs of issue and administration. Refundable if licence not granted.
6.2 – 6.3	HC/PH vehicles, PH operators	s.70(1), Local Gov't (Misc. Provisions) Act 1976 Sufficient to cover the cost of: inspection of vehicle for licensing purposes, providing hackney carriage stands, or other costs for administration and control/supervision of vehicles. Refundable if licence not granted. <i>Maximum fees must be advertised.</i>
7.1	Scrap metal	No fees chargeable
7.2	Motor salvage	s.3(1)(b), Vehicles (Crime) Act 2001 Recovering the costs incurred in administration
8.1	Sex establishments	Sch 3, para 19, Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee
9.1	Skin piercing, etc	s.14(6), 15(6), Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee

ANNEX B – DRAFT LICENSING FEES AND CHARGES 2013-14

10. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the item in Part II of the Agenda for the meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to:

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

18 SEPTEMBER 2012

Present –

MEMBERS:

Councillor Lawson (Chairman), Conway, Mrs Green, R Hollinghurst, Peter, Ryan, G Sutton, Taylor and Whitman.

Councillor R Sutton also attended to observe the meeting.

OFFICERS:

B Lisgarten Legal Governance Team Leader
R Hill Licensing Team Leader
D Wills Assistant Licensing Officer
T Coston Member Support Officer, Democratic Services (Minutes)

The meeting began at 7:30 pm

1. INTRODUCTIONS

The Chairman welcomed everyone to the meeting.

2. MINUTES

The minutes of the meeting held on 24 July 2012 were confirmed by the members present and then signed by the Chairman.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Bhinder, G Chapman, Fantham, Link and Rance.

4. DECLARATIONS OF INTERESTS

There were no declarations of interest.

5. PUBLIC PARTICIPATION

There was no public participation.

6. GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES

R Hill advised that the consultation on this matter had now concluded and the responses received were set out in the report. He referred to paragraph 2.4, and highlighted that some minor amendments had been made to the draft Statement during the consultation period. He said that two of the responses were essentially in agreement with the proposed statement. The third appeared

to be part of a campaign to all licensing authorities, which in the opinion of the officers, should not require further changes to be made beyond the proposed Division of Premises and Primary Usage section of the Statement. He explained that the Gambling Commission were expected to publish the 4th version of their Guidance to Licensing Authorities during the summer, and any changes would have been reflected in the revised Statement. Unfortunately, publication of the Guidance has been delayed until October 2012. He advised that, from the draft Guidance, no significant changes to the Statement would be required, beyond possible revisions to paragraph numbers in references.

He advised the Committee that there had been an amendment to the recommendation at paragraph 5.1, in that the Committee are now asked to refer the matter directly to the Council meeting in November for consideration and adoption. The Assistant Director for Legal, Democratic and Regulatory Services has advised that this matter will not need to be considered by the Cabinet.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the Committee endorse the draft Statement of Principles for the period of 31 January 2013 to 30 January 2016, and refer it to Full Council in November 2012 for approval and adoption, as set out in the report.

7. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING PROCEDURES AND POLICIES

R Hill explained that the proposal put before the Committee was to make a number of amendments to existing taxi policies in a number of areas. The report continued the project, which started last year, to review all aspects of the taxi licensing function. He advised that the Committee were not being asked to adopt any measures at this stage, however authorisation is sought to commence consultation with the licensed trade and other partners. He said that if approved, consultation would start next week and would be ongoing for a 12 week period. The results would be reported back to the January meeting of the Committee for further consideration.

The proposals were set out in section 2 of the report. In respect of the proposal to require further door signage on vehicles, he circulated a specimen of what such signs may look like, although they were for illustrative purposes only and will not form part of the consultation.

Councillor Taylor asked if the proposed signage would be magnetic. R Hill replied it was intended that they would be vinyl stickers.

Councillor Whitman asked the taxi drivers' thoughts on the signage. R Hill advised it would form part of the consultation.

Councillor Lawson asked if it would be a cost to the driver. R Hill replied that it was intended to include the cost within the licence fee. He said officers would obtain quotes for the cost, and believe it would cost approximately £10-15. He said it would form part of the renewal licence conditions.

Councillor Ryan questioned the variation between signage for a Hackney Carriage and a private hire licensed vehicle. R Hill advised that each sign would have a different font colour and background.

Councillor G Sutton asked the approximate size of the proposed signage. R Hill suggested 16 x 12 inches would be adequate.

Councillor Peter asked how durable the vinyl stickers would be. R Hill replied it would be dependent on the supplier and the material. He said they would like the signage to endure approximately 2-3 years as a minimum.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the Committee instruct officers to commence consultation on the following policy amendments, as set out in the report:

4.1.1. To revoke the current policy requiring applicants for hackney carriage and private hire driver licences be at least 21 years of age;

4.1.2. To adopt a new policy requiring applicants for hackney carriage and private hire driver licences to have held a full motor car driving licence for a minimum of three years prior to the date of application;

4.1.3. To introduce a new 'dual licence' application system, permitting application for both hackney carriage and private hire driver licences to be made simultaneously; for all such licences to have a common expiry date; and for a transitional phase to allow existing dual licence holders to bring both badges to a common expiry date for a pro rata fee;

4.1.4. To adopt amendments to the standard licence conditions for both hackney carriage and private hire vehicle licences requiring the display of Council-supplied signage on the rear doors of the vehicle, bearing the Council's logo and an approved message.

4.1.5. To revoke the current 'Guidelines to be used by the Licensing and Health & Safety Enforcement Sub-Committee when considering the relevance of convictions'.

4.1.6. To adopt the new 'Guidelines on Fitness of Applicants for Hackney Carriage / Private Hire Drivers Licences'.

8. TO APPOINT THE LICENSING AND HEALTH & SAFETY ENFORCEMENT SUB-COMMITTEE

The Chairman asked the Committee to consider appointing Councillor R Sutton and Councillor Mrs Bassadone as substitutes on the Licensing and Health & Safety Enforcement Sub-Committee.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

That the Committee agreed the appointment of Councillor R Sutton and Councillor Mrs Bassadone as substitutes on the Licensing of Health & Safety Enforcement Sub-Committee.

The meeting ended at 7:43 pm