

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

TUESDAY 28 AUGUST 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 G Chapman

Cllr Conway

Cllr Fantham

Cllr Mrs Green (Vice-Chairman)

Cllr Lawson (Chairman)

Cllr Link

Cllr G Sutton

Substitutes: Councillors Bhinder, R Hollinghurst, Mrs Rance and Ryan

(Please note Members may only be appointed as substitutes if they have been trained for Licensing Committee).

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.

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1. INTRODUCTION

2. MINUTES

To confirm the minutes of the meeting of the Licensing Health and Safety Enforcement Sub-Committee held on 24 July 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.

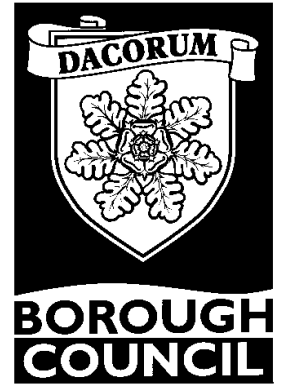
Disclosable pecuniary interests, personal interests and prejudicial interest are defined in Part 2 of the Members' Code of Conduct.

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 Sub-Committee
Date of meeting:	Tuesday 28th August 2012
PART:	1
If Part II, reason:	

Title of report:	CHANGES TO CRB FEES AND PROCEDURES
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To advise of an increase to CRB disclosure fees, and of changes to identity validation procedures
Recommendations	That the fees charged by the Council in respect of CRB disclosures for hackney carriage and private hire drivers are adjusted in line with external fee increases to ensure full cost recovery
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> • Adjusting the CRB fees charged will ensure full cost recovery on this administrative element.
Implications:	<u>Financial</u> The Council is currently making a small loss on every hackney carriage and private hire driver's CRB disclosure. Adopting the recommendations will ensure full cost recovery. <u>Value for Money</u> As 'Financial'
Risk Implications	Not applicable
Equalities Implications	Not applicable
Health And Safety Implications	Not applicable
Consultees:	As this relates to a recharge of fees levied by an external agency, consultation is not considered necessary.

Background papers:	None
Glossary of acronyms and any other abbreviations used in this report:	CRB: Criminal Records Bureau

1. BACKGROUND

- 1.1. Every individual who applies to Dacorum Borough Council for a hackney carriage or private hire driver licence is required to obtain an enhanced criminal records disclosure from the Criminal Records Bureau (CRB), prior to the grant of a licence. The council, which has registered body status with the CRB, arranges for these checks to be carried out at the same time as an application for a licence is received.
- 1.2. This check is considered to be a vital part of the council's obligation to ensure that applicants for driver licences are 'fit and proper persons'.
- 1.3. Taxi drivers (encompassing both hackney carriage and private hire) were specified in legislation as a profession exempt from the provisions of the Rehabilitation of Offenders Act 1974 with effect from the 26th March 2012, allowing the council to take into account offences which would ordinarily be considered 'spent' and disregarded. From that date, the council was entitled to request enhanced level disclosures for drivers.
- 1.4. A fee is charged to the council by the CRB for every disclosure check carried out. This fee is then recharged to applicants, payable at the time of application. The amount recharged to applicants is currently set at £36.00.

2. FEE INCREASE

- 2.1. The CRB increased the fee charged for an enhanced disclosure on the 6th April 2011, to £44.00, to reflect increased costs of delivering the service after the Government's 'Vetting and Barring Scheme' was scaled back.
- 2.2. At that time, as taxi driver was not specified as an exempt profession, the council was requesting standard level disclosures. These are subject to a fee of £26.00, which was not increased in 2011.
- 2.3. When the council recommenced requesting enhanced level disclosures in March 2012, it was not appreciated that there had been an increase to the fee, and the previous fee was utilised. As a result, the council is currently incurring an £8.00 loss on every disclosure it requests for driver licence applicants, which is currently being absorbed from licence application fees.
- 2.4. It is therefore proposed that the fees charged to applicants for a CRB disclosure are raised to £44.00, with effect from the 1st September 2012, to ensure full cost recovery. It is further proposed that any future increases or decreases to the fee charged by the CRB are reflected automatically in the fee charged by the council, without need for further Committee resolutions.

3. CHANGES TO IDENTITY VERIFICATION PROCEDURES

- 3.1. The CRB have also advised of changes to their identity verification procedures, which must be followed by all registered bodies when requesting disclosures, to take effect from the 1st September 2012.
- 3.2. Currently, applicants for disclosures are required to present several pieces of identification from a prescribed list, which includes official documents such as driving licences or passports, and other documents such as financial statements, letters from official bodies, or utility bills.
- 3.3. Under the new procedures, registered bodies will now be required to verify the identity of a person who is to be the subject of a disclosure using one of three 'routes':
 - 3.3.1. Route 1 requires the checking of a prescribed piece of current, government-issued identification: either a photographic UK driving licence, a passport, a UK biometric residence permit, or an original UK birth certificate, as issued at the time of birth. Two further documents must also be produced from an approved list. It is believed that the vast majority of applicants for driver licences will be able to satisfy the requirements of this route.
 - 3.3.2. If an applicant is unable to produce a suitable form of official photographic ID, they must then be verified under route 2. In addition to the production of three pieces of identification from an approved list, the applicant must also pass an external identity validation check, through a company that complies with the Government's Level 2 (remote) identity verification standards.
 - 3.3.3. If neither route 1 or 2 is successful, route 3 requires production of a combination of five documents from an approved list. Where none of these routes can be utilised, the applicant will be required to undergo fingerprinting to allow further checks to be carried out.
- 3.4. Officers are currently investigating options for the route 2 identity check, which will incur a further fee (likely to be less than £10.00). It is proposed that the cost of this is borne by the applicant, in the same way that CRB fees are. The changes are likely to affect a single-digit number of applicants.

4. RECOMMENDATIONS

- 4.1. That the fees charged by the Council in respect of CRB enhanced disclosures for hackney carriage and private hire drivers are raised to £44.00, with effect from the 1st September 2012;
- 4.2. That the fee charged by an external identity verification company in respect of a CRB Route 2 identity check, for those applicants affected by those provisions, shall be recharged in full to the applicant;
- 4.3. That any future changes to the fees charged by the CRB for disclosures, or the fees charged by an external identity verification company for route 2 identity checks, shall be reflected automatically in the fees charged by the Council for such, on a full cost recovery basis, without further resolution.

AGENDA ITEM: 7

SUMMARY



Report for:	Licensing Health & Safety Enforcement Sub-Committee
Date of meeting:	Tuesday 28th August 2012
PART:	1
If Part II, reason:	

Title of report:	TAXI LICENSING LAW REFORM PROPOSALS
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To advise the Committee of proposals to reform taxi and private hire licensing law
Recommendations	That Members note the contents of the report
Corporate objectives:	Safe and Clean Environment <ul style="list-style-type: none">Public safety standards, in respect of both licensed vehicles and their drivers, are a key focus of the proposed reforms, which include the introduction for the first time of national minimum safety standards.
Implications:	<u>Financial</u> The transition to a new taxi licensing system is likely to have cost implications in adopting and exercising the revised scheme, and revenue implications in terms of application fees – however, this report marks the very first stage in this process, and insufficient details are currently available to formally assess these implications at this time. <u>Value for Money</u> As 'Financial'
Risk Implications	Not applicable
Equalities Implications	An Impact Assessment has been produced by the Law Commission as part of their proposals
Health And Safety Implications	Not applicable

Consultees:	Consultation is being carried out by the Law Commission.
Background papers:	Law Commission Consultation Paper No 203: Reforming the Law of Taxi and Private Hire Services, and summary
Glossary of acronyms and any other abbreviations used in this report:	

1. CURRENT LEGISLATION

- 1.1. Dacorum Borough Council is responsible for the regulation of hackney carriage (taxi) and private hire services within its area. The key pieces of legislation under which these services are controlled are:

Town Police Clauses Acts of 1847 and 1889
Local Government (Miscellaneous Provisions) Act 1976
Transport Acts of 1980, 1981 and 1985
Disability Discrimination Act 1995
Equality Act 2010

A large number of minor Acts have also impacted upon certain aspects of the overall regulatory scheme.

- 1.2. Currently, the proprietors and drivers of hackney carriage vehicles, and the operators, proprietors and drivers of private hire vehicles, are required to obtain licences from the council to permit their conduct in the relevant role. A number of policies, standards, byelaws and conditions have been adopted by the council in respect of the administration and enforcement of these licence types.
- 1.3. The age of the primary legislation, coupled with the piecemeal way in which subsequent modifications have been applied, present numerous challenges, both for the trade and for regulatory authorities, in interpreting and reconciling outdated statutory provisions, and applying those provisions to new technological, political and economic developments. There is also significant variation amongst authorities in respect of the processes, policies, standards and application fees adopted, reflecting both local preferences and the lack (until recently) of any formal guidance from central Government as to how individual local authorities should be carrying on their functions.

2. PROPOSED REFORM

- 2.1. The House of Commons Transport Select Committee reported to Parliament in July 2011 on the need to reform taxi licensing laws, after considering numerous submissions on defects and problems arising from the current scheme of legislation. The Department for Transport subsequently proposed a programme of reform, which has been adopted by the Law Commission.
- 2.2. The Law Commission published a consultation document in May 2012, setting out a number of proposals for reform. The full consultation paper,

which runs to more than 200 pages, is available via the Commission's website, at <http://lawcommission.justice.gov.uk/consultations/1804.htm>

2.3. The key proposals are:

- To retain the current distinction between taxi and pre-booked private hire services, and introduce a revised two-tier licensing system
- To introduce national minimum safety standards and conditions for both taxi and private hire vehicles and drivers (individual authorities would be permitted to specify more stringent standards for taxis, but not for private hire)
- To allow private hire operators to operate on a national or regional basis, permitting the use of vehicles and drivers licensed by a different authority, and to allow sub-contracting between operators
- To remove licensing authorities discretion to limit the number of taxis they will licence on unmet demand grounds
- New enforcement powers for council officers and police
- Mandatory disability awareness training for licensed drivers
- To permit leisure use of licensed vehicles by non-licensed drivers
- Widening the licensing scheme to encompass further vehicle types – e.g. motorbikes, tuk-tuks, pedicabs, as well as funeral and wedding car services
- New binding statutory guidance from the Government to ensure consistency in application of the revised laws

2.4. A separate document published by the Commission, which contains a fuller summary of the proposals at pages 8 to 15, is attached to this report as Annex A.

2.5. Representatives of the Law Commission have been invited to the Civic Centre on Thursday 30th August to give an overview of their proposals to Members and trade representatives.

2.6. The Commission's consultation on their proposals closes on the 10th September 2012. A response to the consultation on behalf of the authority has not currently been prepared nor sent.

3. TIMELINE

3.1. At this time, these proposals do not require any action to be taken by individual authorities, other than submission of consultation responses. The current licensing system will continue to operate until such time as any new legislation receives Royal Assent and is commenced.

3.2. The Law Commission have indicated that they intend to report the outcome of their review and consultation process to Parliament, and to submit a draft reform Bill, by November 2013. It would then be up to the Government to include the draft Bill within a legislative program, and the nature of the proposed changes would suggest that any subsequent debates and Committee hearings would be fairly lengthy.

3.3. The timeline for implementation of any changes is therefore likely to be around three years as a minimum, dependent upon the availability of Parliamentary time and the will of Parliament to reform the current laws.

8. 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 an individual which would be likely to reveal their identity (Items 9 and 10).

DACORUM BOROUGH COUNCIL

LICENSING HEALTH AND SAFETY AND ENFORCEMENT SUB-COMMITTEE

24 JULY 2012

Present-

MEMBERS:

Councillor Lawson (Chairman), Conway, Mrs Green, R Hollinghurst, Link, Ryan and Sutton

Councillor G Chapman also attended to observe the meeting.

OFFICERS:

L Crowley	Solicitor
R Hill	Licensing Team Leader
R Mabbitt	Licensing Enforcement Officer
T Coston	Member Support Officer, Democratic Services

Other Persons Present:

Mr A – Item 8 - Applicant
Mr A – Item 8 – Applicant’s Representative
Mr T – Item 9 - Applicant

The meeting began at 7:48 pm

1. INTRODUCTIONS

The Chairman welcomed everyone to the meeting and informed those present he would introduce the Committee and the officers when it was appropriate.

2. MINUTES

The Minutes of the meeting held on 24 April 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 Councillor Fantham. Councillor Ryan substituted for Councillor Fantham.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. EXCLUSION OF THE PUBLIC

It was moved by Councillor Lawson and seconded by Councillor Link to move to Part II of the meeting and to exclude the public.

Voting:

Unanimously agreed

Whereupon it was:

Resolved:

That, under Section 100A (4) of the Local Government Act 1972 the public be excluded during the items in Part II of the Agenda for this meeting, because it was likely, in view of the nature of the business to be transacted, that if members of the public were present during these items there would be disclosure to them of exempt information relating to individuals which is likely to reveal their identities (Minutes 6, 7 and 8).

6. APPLICATION FOR A VARIATION OF THE LICENCE CONDITIONS FOR A PRIVATE HIRE DRIVER - MR E

Full details are in the Part 2 minutes

7. REQUEST FOR EXEMPTION FROM HACKNEY CARRIAGE VEHICLE POLICY – MR A

Full details are in the Part 2 minutes

8. REQUEST FOR EXEMPTION FROM HACKNEY CARRIAGE VEHICLE POLICY – MR T

Full details are in the Part 2 minutes

The meeting ended at 8:38 pm

APPENDIX B

PROCEDURE FOR THE LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE (PRIVATE HIRE VEHICLE AND HACKNEY CARRIAGES)

1. The Chairman will open the proceedings by stating the nature of the matter, which is to be considered, (first application/renewal/suspension/revocation), whether the proceedings concern a vehicle, driver or operator licence, and the name of the applicant or licence holder.
2. The Chairman will introduce himself/herself and the Members of the Committee, the Clerk to the Committee and any other officer present.
3. The Chairman will ask the officers to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with. In the case of a proposed suspension or revocation of licence or a refusal to renew, the Chairman will ask the officers to confirm whether or not the requisite 14 days' prior notice has been served on the licence holder.
4. If satisfied as to the formal requirements the Committee will consider the merits of the application or proposed suspension/revocation and the report of the officers. The Committee may ask the officers for clarification of any points in issue.
5. The Chairman will then invite the applicant or licence holder to make any representations. The applicant or licence holder may make his/her representations personally or through a representative, who shall first identify him/herself.
6. The Chairman and other members of the Committee may ask the applicant or licence holder questions and points of clarification.
7. The applicant or licence holder, his/her representative (if any) and any officer present (with the exception of the Clerk to the Committee) shall withdraw.
8. The members of the Committee consider their decision. If any further clarification or information is required from the applicant or licence holder or any officer, all parties will be recalled
9. All parties will be recalled for the announcement by the Chairman of the Committee's decision.
10. The Committee's decision will be confirmed in writing by the Solicitor to the Council.
11. At any point in this procedure, the Committee may pass a resolution excluding the press and public from the meeting on the basis that, if they were to remain, there may be disclosure of exempt information (information relating to individuals which is likely to reveal their identities).

DACORUM BOROUGH COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

Any requirements of legislation which affect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of this licence.

1. Type of Vehicle

The vehicle must not resemble a London-type taxi or be of such design to lead any person to believe the vehicle is a taxi.

2. Maintenance of Vehicle and Safety Equipment

The proprietor of the vehicle shall:

- (a) Provide sufficient means by which any person in the vehicle may communicate with the driver;
- (b) Cause the roof or covering to be kept watertight;
- (c) Provide adequate windows which must be capable of being opened and closed at all times by passengers;
- (d) Cause the seats to be properly cushioned, covered and kept clean;
- (e) Cause the floor to be provided with a proper carpet, mats or other suitable floor covering;
- (f) Cause the fittings and furniture generally to be kept in a clean condition and well maintained;
- (g) Provide means for securing luggage;
- (h) Provide external rear view mirrors to be fitted both sides of the vehicle;
- (i) Provide a heater screen to the rear window of the vehicle which must be kept in working order;
- (j) Ensure that the wheels (including the spare) are not fitted with remould tyres;
- (k) Ensure that the wheels (including the spare) are fitted with radial tyres.

- (l) Provide an efficient vaporising liquid or dry powder fire extinguisher, which shall be carried in such a position as to be readily available for use at all times;
- (m) Provide a first aid kit, such equipment to be carried in such a position in the vehicle as to be readily available for use at all times (a list of minimum contents will be supplied)
- (n) Ensure that the vehicle and all its fittings and equipment are at all times, when the vehicle is in use or available for hire, kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with;
- (o) Ensure that no material alteration or change in specification, design, condition or appearance of the vehicle are made without the approval of the Council at anytime whilst the licence is in force;
- (p) If the vehicle is an estate, a guardrail must be fitted of a type approved by the Council, to separate the rear loading area from the passengers. In the case of hatchback models, it is only necessary to fix a guardrail when the parcel shelf is removed.

3. Identification Plate

The identification plate issued by the Council bearing the number of the licence granted in respect of the vehicle shall be securely fixed to the satisfaction of the Council, on or above the bumper on the outside of the offside rear of the vehicle, in such a position that it shall be clearly visible from the rear of the vehicle and the proprietor/driver shall not wilfully or negligently conceal it from public view whilst the vehicle is being used for hire.

4. Interior Marking

The interior plate issued by the Council bearing the number of the licence granted in respect of the vehicle shall be securely fixed inside the vehicle, to the satisfaction of the Council, in such a position that it is clearly visible to the passengers while the vehicle is being used for hire.

5. Roof Signs

The proprietor must not fix a roof sign on the vehicle.

6. Notices, Advertisements etc

No signs, notices, advertisements, marks, numbers, letters, figures, symbols, emblems, badges or any device whatsoever must be displayed on, in or from the vehicle, except as may be required by an statutory provision or the following conditions:

- (a) An identification sign of a maximum size of 30" x 16" showing the name of the firm and/or the company's symbol or badge which **must** include the words "**LICENSED PRIVATE HIRE CAR**" must be displayed on the front doors of the vehicle only, subject to an

authorised Officer of the Council approving the appropriate size, layout and design and wording prior to them being displayed on the vehicle;

(Note: The only exemption to this condition will be for vehicles which are being used for executive hire under a contract.)

- (b) There may be displayed inside the vehicle an interior panel measuring 10" x 8" for displaying advertisements, provided it is not illuminated or readily visible outside the vehicles

7. Two Way Radio Equipment and Hands-Free Telephones

The proprietor shall immediately notify the Licensing Office before such equipment is installed in a licensed vehicle, so that the equipment and proposed position can be checked and approved in relation to passenger and driver safety.

8. Driver

The driver shall at all times be clean and respectable in his dress and behave in a civil and orderly manner.

(a) Passengers

The driver shall not, when the vehicle is in use:

- (b) Carry more passengers than the vehicle is licensed to carry;
NB: A one-day old child is a passenger.
- (c) Have more than one passenger in one seat belt;
- (d) Without the consent of the hirer of the vehicle, convey or permit to be conveyed, any other person in that vehicle;
- (e) Place any passenger in danger regarding the use of seat belts or child restraints.

10. Change of Address

The proprietor shall immediately notify the Council in writing of any change of his/her address during the period of the licence that the vehicle is kept.

11. Convictions

The proprietor of the vehicle shall immediately disclose to the Council in writing any conviction imposed on him/her or the driver during the period of the licence.

12. Deposit of the Drivers Licence

If the proprietor of the vehicle permits or employs any other person to drive the vehicle as a hire car, he/she shall, before the person starts to drive the vehicle, cause the driver to deliver to him/her his/her Hire Car Drivers Licence

for the retention of until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his/hers.

13. Copy of Vehicle Licence Conditions

The proprietor shall make sure that he/she or any driver he/she engages or employs carries a copy of the vehicle licence and conditions in the vehicle, and makes them available for inspection by an authorised officer, the hirer or any other passenger on request.

14. Vehicle Fitted with Taximeter

If the licensed vehicle is fitted with a taximeter or other device for recording fares, it must be of a type approved by the Council and the position of the device in the vehicle shall be approved, tested and sealed by an Authorised Officer.

15. Insurance

The proprietor shall at all times be adequately insured to the Council's satisfaction in respect of the use of the vehicle for carrying fare paying passengers and ensure that he/she or any driver he/she engages or employs carries proof that the vehicle is insured and makes it available for inspection by an authorised officer, the hirer or any other passenger on request.

16. Accidents

Any accident to a vehicle must be reported to the Council as soon as possible and, in any case, within 72 hours. A Vehicle Damage Report must be presented to the Licensing Office. **No further hiring's may be undertaken until the vehicle has been inspected and approved by an authorised Officer.**

(Note: a vehicle that has been withdrawn from service may require a further mechanical test at the Council's authorised testing station before being allowed to return to service, this depends on the extent of damage. (Any cost to be met by the proprietor.)

17. The Council reserves the right to vary, delete or waive any of the foregoing Conditions.

If you are aggrieved by any of the Conditions attached to this licence, you may appeal to a Magistrates Court within 21 days of the service of the licence on you. (S.47 and 77 of the 1976 Act and S.300 to 302 of the Public Health Act 1936.).