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**DACORUM BOROUGH COUNCIL**

**LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE**

**27 NOVEMBER 2012**

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Present –

**MEMBERS:**

Councillors Lawson (Chairman), G Chapman, Conway, Fantham, Mrs Green, R Hollinghurst, Link, Peter, Ryan, Sutton and Whitman.

**OFFICERS:**

L Crowley	Solicitor Advocate/Barrister
R Hill	Licensing Team Leader
R Mabbitt	Licensing Enforcement Officer
P Bowles	Member Support Officer

The meeting began at 7:30 pm

**1. INTRODUCTIONS**

The Chairman introduced himself and welcomed everyone to the meeting.

**2. MINUTES**

The minutes of the meeting held on 18 September 2012 were confirmed by the Members present and were then signed by the Chairman.

**3. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of Councillor Bhinder, Mrs Rance and Taylor.

**4. DECLARATIONS OF INTERESTS**

No interests were declared

**5. PUBLIC PARTICIPATION**

None

**6. DRIVER LICENCE VERIFICATION CHECKS**

The use of the DVLA driver licence verification service for taxi driver licence applicants, and proposed use of an alternative service was considered.

Ross Hill, Licensing Team Leader, introduced the report and explained that the Council currently undertake between 150 and 200 checks of driving licences per year. Although DVLA offer a bulk, electronic service, use of this is only financially viable for larger authorities. An issue has arisen due to the diminishing response time from the current postal DVLA service. There are currently 25 checks outstanding, the oldest of which were sent to DVLA more than 6 weeks ago. In cases where licences have not previously been held, or

where licences have been allowed to expire, the applicant is unable to work until the response has been received, as we require all checks to be complete prior to considering the issue of a licence.

A number of commercial service providers, offering an electronic driver licence verification system, were approached and Intelligent Data Systems is recommended as the preferred option based on ease of use, support and pricing.

If the proposal to change to a commercial provider is adopted, then a Service Level Agreement would need to be agreed between the Council and the provider, specifying the expected response times.

At the agreement of the Committee a demonstration was given to Members of how the driving licence verification service would operate. The process is carried out via a secure web based application and the expectation is that 90%+ of the responses would be delivered within 3 working days, which would be a significant improvement over the current system.

In response to a question from Councillor Whitman regarding the cost of each application, Ross Hill replied that the cost of the service is £5.75 plus VAT per check as opposed to the DVLA charge of £5, but is thought that the increase is justified by the faster response time and improved level of support. As is currently the case, the cost would be recharged to the applicant as part of the licence application fee.

Councillor Sutton asked where the service providers obtain the information. Ross Hill replied that they have direct electronic access to the DVLA database. Although this is theoretically available to local authorities, the cost of purchasing such direct access would be prohibitively high, unless several thousand individuals were to be checked.

The substantive recommendation, as set out in the report, was proposed.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

1. That, with effect from the 1<sup>st</sup> 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;
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;
3. That the cost of the driving licence verification check be recharged in full to applicants;
4. That the preceding paragraphs shall supersede the resolution of the Licensing Health & Safety Enforcement Sub-Committee on the 25<sup>th</sup> November 2008 in respect of DVLA checks.

## **7. APPOINTMENT OF HACKNEY CARRIAGE STANDS**

The proposals to appoint two new hackney carriage stands in Hemel Hempstead town centre were considered.

R Hill, Licensing Team Leader, introduced the report and pointed out an amendment to paragraph 3.2 of the report, in that the proposed stand in the Old Town will extend for approximately 30 metres, rather than 45, and will accommodate 6 hackney carriages.

In the case of the proposed Waterhouse Street stand, a traffic regulation order was passed in August, prohibiting other vehicles from stopping or waiting at the site of the proposed stand. A draft traffic regulation order for the Old Town redevelopment is currently out to consultation. The Highways Engineers at County have indicated that the work is currently expected to be carried out in February or March 2013.

Councillor Whitman referred to the validity of the waiting restrictions in Waterhouse Street. Ross Hill said that both he and the Parking Centre were aware of the situation, and both services had contacted the County Council to request the urgent rectification of the defect.

Councillor Whitman also queried the lack of provision for bank customers to park on a short visit to the bank, and suggested that an extended rank on the opposite side of Waterhouse Street, adjacent to the Water Gardens, may be a more appropriate location for a taxi rank. Ross Hill said that the proposed Waterhouse Street stand was formerly a bus stop, and there was no loss of parking spaces as a result of the proposal. This site was identified by Herts County Council as the most appropriate location for a taxi stand, and the two existing bays adjacent to the Water Gardens are designated as drop off points only.

The substantive recommendation, as set out in the report, was proposed.

Voting:

10 for and 1 against:

whereupon it was:

Resolved:

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
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.

## **8. REVIEW OF LICENSING ENFORCEMENT POLICY**

Proposed amendments to the Council's Licensing Enforcement Policy, prior to public consultation, were considered.

R Hill, Licensing Team Leader, introduced the report and explained that for the most part, the proposed amendments to the enforcement policy were semantic, or reflected updated practices with regard to enforcement activities. He highlighted section 2.3 of the report which set out some more significant proposed changes, in particular for the making of representations and review applications on behalf of the licensing authority in respect of alcohol, entertainment and gambling licences.

In respect of taxi licensing, the Administrative Court recently ruled, in R. (on the application of Singh) v. Cardiff City Council, that the use of the power of suspension of a taxi licence pending further investigation is unlawful, with Justice Singh making clear that suspension of a licence is the final resolution of a matter only, also confirming the suspension as a punishment is permissible. This prompted a re-examination of the method by which investigations were carried out by officers. The proposal now, following the most serious allegations against a licensed driver, is for a new delegated power of immediate revocation of a licence, where such a measure is deemed necessary in the interests of public safety. It is proposed that such a power would be exercised by the licensing team leader or a senior officer, in consultation with the chair or vice-chair of the committee, after consideration of any written or verbal representations made by the licence-holder in respect of the allegation. R Hill also highlighted a proposal, at paragraph 2.36 of the amended policy, for the effective restoration of a licence should the holder be cleared of the allegation or charges.

The report and draft policy were presented on a pre-consultation basis, and any responses or feedback will be reported to the Committee in February.

Councillor Lawson asked Ross Hill to clarify that, in light of the recent court case, following an alleged offence, a licence now cannot be suspended on an interim basis pending the outcome of any charges or investigations, and that if it was subsequently discovered that an allegation was baseless, that the licence holder would need to make an application which would be expedited to bring the licence back into force.

Ross Hill confirmed that this would be the case, and that the expedited reapplication would bring the Licence back into force on the previous terms, but without requiring the CRB and DVLA and medical checks that were completed on the previous application. In all cases the restored licence would not be valid for a longer period than was left on the previous licence. In the recent court case, it was ruled that suspension is a final action, and if a licence were to be suspended the Committee could not take any further action affecting the validity of the licence.

The substantive recommendation, as set out in the report, was proposed and seconded.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

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 the report; and
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 12<sup>th</sup> February 2013.

**9. LICENSING FEES 2013-14**

Proposals for licensing application fees in the financial year 2013-14, prior to consultation were considered.

Ross Hill, Licensing Team Leader, introduced the report and circulated an additional paper showing the percentage changes between current fees and the proposed Licence fees and charges for 2013-2014. He explained that the fees have been proposed on the basis of the costs incurred in processing and determining applications, and where appropriate a proportion of the costs of developing policies, maintaining registers, and so forth. Cost recovery, in so far as is legally permitted, was the key basis for the review of these fees.

However, as paragraph 1.6 of the report sets out, a number of costs had to be estimated as a result of current and ongoing reviews of structures, procedures and suppliers. It is intended that costs and fees will be reviewed on an annual basis henceforth, to ensure that the fees charged by the council remain appropriate to the costs incurred.

There has been some discussion with the legal department as to the propriety of some of the fees, in particular the proposal for a charge to call in an officer refusal of an exemption from standard conditions, and this will be examined more closely during the consultation period and the result will be submitted to the Committee in due course.

This report was presented on a pre-consultation basis, and any responses or feedback will be reported to the Committee in February.

Councillor Sutton referred to Paragraph 8.1 (Application for transfer of sex establishment licence) and asked why the proposed fee was reduced from £2,000 to £700 (a reduction of 65%). Ross Hill said that this followed an evaluation of the amount of administration work that went into processing applications of this type, and the lower potential for hearings given the smaller scope for objections.

Councillor Peter queried the low fee for an application for registering of skin piercing. Ross Hill explained that the current £180 fee is for the registration of the premises. An additional registration for each individual practitioner undertaking the regulated activities would then be required. This area of work has been identified as one requiring attention within the next year, and that review is likely to result in a policy proposal being put to the Committee to set out the Council's expectations of applicants, and procedures for registering premises and practitioners.

Councillor Peter said he was concerned that there are currently no background checks for the operators of skin piercing businesses and asked that a review be speeded up if possible.

Councillor Lawson asked if the charges reflect the cost to the Council, and highlighted a proposed reduction in the fees charged for certain gambling applications. Ross Hill replied that the proposed fees do reflect the costs as far as possible. In terms of gambling, there

have been very few applications in recent years to benchmark against and therefore these are projected fees based on other similar licences. The authority can set its own gambling premises licence fees within limits set by Government in Regulations. Every category of premises licence, apart from bingo, had previously been set at 50% of the maxima, with bingo set at the maximum level. This proposal would bring everything to around 60-65% of the statutory maximum fees, which would be consistent with the costs incurred in the processing of such applications.

The substantive recommendation, as set out in the report, was proposed and seconded.

Voting:

Unanimously agreed;

whereupon it was:

Resolved:

1. That the Committee note the proposals in the draft 'Licensing Fees and Charges 2013-14' document; and
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 12<sup>th</sup> February 2013.

The meeting ended at 7.56 pm