



## AGENDA ITEM: 7

### SUMMARY

<b>Report for:</b>	<b>Licensing Health &amp; Safety Enforcement Committee</b>
<b>Date of meeting:</b>	<b>27 August 2013</b>
<b>PART:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Licensing arrangements for Private Hire Operators</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To set out proposed changes to the Council's licensing arrangements for private hire operators, prior to consultation.
Recommendations	That officers be instructed to commence consultation on the proposals and report the results to a future meeting, as set out at para 4.1.
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>• Maintain a clean and safe environment</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>• Efficiencies</li> </ul>
Implications:	<p><u>Financial</u> An application fee for the revised administrative costs has yet to be established, but based on early projections a fee of around £360 would reduce the Council's application fee revenue by £1,865 annually, when averaged over a 6-year period and assuming current licence numbers remain stable. This reflects the reduced administrative cost due to less frequent applications.</p> <p><u>Value for Money</u> Although each application would take longer to process due to more checks being carried out, the frequency of applications would decrease from annual to 2- or 3-yearly, reducing the administrative burdens on both council officers and business.</p>

	<p><u>Risk / Health &amp; Safety Implications</u> The proposals relate to administrative changes only, and no new risks are expected to arise.</p> <p><u>Equalities Implications</u> No equalities implications are anticipated from this change.</p>
Consultees:	Consultation with licensed operators will be carried out if the recommendations of this report are adopted.
Background papers:	
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

- 1.1. The Council is responsible for the licensing of private hire operators under section 55 of the Local Government (Miscellaneous Provisions) Act 1976. Operators play a key part in the function of private hire vehicles, as the Act requires that these may only accept bookings for journeys which have been invited and accepted through a licensed operator. A licensed operator maintains a fleet of vehicles and drivers, licensed by the same authority, to which any bookings received are allocated.
- 1.2. For the majority of bookings, operators are the initial point of contact with the public, and hold personal details (including in some cases financial details) about their customers. They are ultimately responsible for the fulfilment of the booking and safe carriage of their customers, as well as the employment or engagement of drivers and other staff. To ensure that this position of trust is not abused, the Council is required to satisfy itself that applicants for licences are 'fit and proper persons', and may refuse applications or revoke or suspend licences if this is found not to be the case.
- 1.3. As the law stands, a wide variety of businesses require operator's licences. In addition to the 'general' private hire companies providing minicab services to the public, a number of chauffeurs, stretch limo operators, courtesy car providers and other transport services must hold licences.
- 1.4. At the time of writing, the Council has issued a total of 49 private hire operators licences. 37 of these indicated on their most recent application that they operated 5 or fewer vehicles, with a significant proportion of these representing self-employed drivers with a single vehicle, particularly in the executive/chauffeur sector. Operator's licences are currently issued for one calendar year.
- 1.5. Every operator's licence is subject to a number of standard conditions, set by the Council, which stipulate the content of records to be retained by the operator, set the service standards to be followed, restrict the vehicles and drivers which may be employed, and require operators to declare any convictions they receive.

- 1.6. Until March of this year, the Council charged application fees for operators licences in 3 bands – reflecting the operation of 1-5 vehicles, 6-20 vehicles, and 21+ vehicles. From the start of this municipal year, the upper two bands were merged. Fees are required to be set to account for the administrative costs of processing the application for the licence, and for a proportion of the costs of ensuring control and supervision amongst the licensed private hire trade.
- 1.7. This report continues an ongoing process of review of procedures and policies in the taxi and private hire licensing area, in respect of which several reports have previously been considered by the Committee.

## **2. PROPOSED CHANGES**

- 2.1. Substantial overhauls are now being proposed to the Council's existing arrangements for the licensing of private hire operators. Over time, this licensing process has degraded to little more than a paper exercise – there are currently few meaningful checks being undertaken in respect of the fitness and propriety of applicants (although an operator's licence was recently revoked following the licensee's conviction for offences, this was brought about as a result of enforcement action, rather than through the licensing process). Irrelevant information is being requested within applications, while desirable information is not requested. Defects have also been identified in the current schedule of standard conditions being applied to operator's licences – one of which resulted in a charge being withdrawn during a prosecution undertaken by the authority.
- 2.2. A new, more robust scheme of licensing is now proposed to replace the existing arrangements. Details of this revised scheme are set out in greater detail in the draft licensing policy document, attached at Annex A, which would itself require adoption as guidelines for the Committee and officers on the exercise of relevant functions, but the key points are as follows:
  - Applicants for licences would complete and submit a revised application form, giving details on a greater range of matters.
  - Applicants would also be required to submit Basic Disclosure certificates, listing any unspent criminal convictions, unless they have previously been vetted to a higher level during a recent driver's licence application.
  - Further searches into the financial propriety of applicants would also be carried out.
  - A single application fee would be chargeable on all applications, set at a level commensurate with the costs incurred in processing the application and ensuring compliance by the licence-holder.
  - A wider range of matters would be considered as part of the Council's determination of the application, with the licensing policy serving as a basis for these decisions to be made, providing clarity to both applicants and to the Council as to expected actions. This will assist in ensuring consistent decision-making, in accordance with the Better Regulation Principles.
  - If a licence is granted, it will be issued for a 2-year period.
  - Smaller operators, with no more than 3 vehicles, would go through the same licensing process as their larger counterparts, but would be licensed for a 3-year period.

- The standard conditions applying to operator's licences would be revised, including new requirements for the records to be kept, a duty to notify the Council of any new drivers or vehicles being operated, a duty to display the licence in public offices, to provide a complaints handling procedure, and expanded notification requirements.
- 2.3. The legislation stipulates that licence must not be issued unless the Council is satisfied that the applicant is a fit and proper person to hold a licence of this type. By requiring a statutory declaration from each applicant, in addition to a criminal record certificate from any applicant who has not previously been vetted by the Council, and by carrying out searches in respect of any previous adverse financial proceedings, it is believed that a firmer picture of applicant's fitness and propriety will be established, leading to better and more proportionate decision-making. The proposed guidelines also refer to the powers of suspension and revocation of licences, and it is proposed that these guidelines would be applied to interim sanctions against licensed operators for misconduct during the period of a licence, again bringing greater clarity over the likely actions that will be taken.
  - 2.4. Operator's licences may be issued for a maximum of 5 years. It is believed that the proposed 2-3 year licences will offer the best balance between reduced bureaucracy for businesses and fulfilling the Council's public safety duty by verifying that operators are fit and proper for the type of work they are undertaking.
  - 2.5. The criteria by which fees for operator's licence are set are contained at section 70 of the Act, and fees may be set to cover the whole of any reasonable administrative or other costs incurred in connection with the application and with the control and supervision of hackney carriages and private hire vehicles. Although a final fee has not yet been established, preliminary calculations suggest that this would need to be around £360 to recover an appropriate proportion of these costs. The concept of banded application fees, as is currently utilised, is currently in the spotlight, with one national trade association currently looking to challenge fee structures of this type around the country. Although officers believe that the existing fees are correctly calculated and defensible if challenged, moving to a single application fee will help to simplify the administration of applications.
  - 2.6. Consultation with those affected by the proposals will be required, so as to accurately gauge the impact of these changes on the private hire trade in Dacorum. If the Committee are minded to accept the recommendation made at the end of this report, it is proposed to write to all licensed operators with details of the proposals, allowing a 6 to 8 week period for feedback. Details will also be published on the council's website, and on the electronic taxi newsletter sent to subscribers. Results will be reported to a Committee meeting later this year, to allow a final decision to be taken.
  - 2.7. It is proposed that, if a decision is taken to adopt these changes, that the policy be published immediately and applied to all matters instituted after that date. In respect of the other changes, these would apply from the next application made in respect of the licence. This would mean that all existing licences would continue to have effect, under the existing terms and conditions, until the expiry dates applying to each (up to 12 months). The new provisions would take effect when the licence was next renewed, or upon application for a new licence after the appointed date.

### **3. ATTACHED DOCUMENTS**

3.1. The following documents are attached to this report:

- Annex A** – Draft Private Hire Operators Licensing Policy
- Annex B** – Draft Private Hire Operator’s licence application form
- Annex C** – Draft guidance notes for completion of PHO application form
- Annex D** – Proposed standard conditions applying to PH operator’s licences

### **4. RECOMMENDATIONS**

4.1. That Committee instruct officers to commence consultation on changes to the arrangements for the licensing of private hire operator’s, as follows:

- That operator licences shall be issued for 3 years in the case of operators with no more than 3 vehicles, and 2 years for those with 4 or more vehicles.
- That a single application fee shall be payable by all operators.
- That a revised application form, as annexed to this report, be adopted and required from all applicants.
- That all applicants (or every director of a limited company applicant) be required to provide a basic disclosure certificate, issued in the relevant individual’s name not more than 3 months prior to the date of application, unless that individual holds a current hackney carriage or private hire driver’s licence issued by the Council.
- That the standard conditions applied to operator’s licences be revised in accordance with the annexed schedule.
- That a written policy (annexed), containing non-binding guidelines for the Committee and officers in respect of the licensing of private hire operators, be adopted and published.
- That, with the exception of the publication of the policy, the above changes shall be applied from the first application made after adoption.

4.2. That the results of consultation shall be reported to a future meeting of the Committee for consideration prior to a decision as to whether to proceed.