



# THE LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE AGENDA

TUESDAY 28 JULY 2015 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 S Adshead               | Cllr Link     |
| Cllr Barnes                  | Cllr Mills    |
| Cllr Mrs Bassadone           | Cllr Peter    |
| Cllr Conway                  | Cllr R Sutton |
| Cllr Fantham (Vice-Chairman) | Cllr Taylor   |
| Cllr P Hearn (Chairman)      | Cllr Whitman  |
| Cllr Howard                  |               |

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## **1. MINUTES**

To confirm the minutes of the meeting held on 03 February 2015.

## **2. APOLOGIES FOR ABSENCE**

To receive any apologies for absence

## **3. DECLARATIONS OF INTEREST**

A member with a disclosable pecuniary interest or a personal 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, if the interest is a disclosable pecuniary interest, or a personal interest which is also prejudicial

- (ii) may not participate in any discussion or vote on the matter (and must withdraw to the public seating area) unless they have been granted a dispensation.

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

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

[If a member is in any doubt as to whether they have an interest which should be declared they should seek the advice of the Monitoring Officer before the start of the meeting]

## **4. PUBLIC PARTICIPATION**

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

## **5. PRESENTATION: PUBLIC HEALTH IN LICENSING (DAWN MORRISH, PUBLIC HEALTH, HERTFORDSHIRE COUNTY COUNCIL)**



## AGENDA ITEM: 6

### SUMMARY

|                         |   |
|-------------------------|---|
| <b>Report for:</b>      | <b>Licensing, Health &amp; Safety and Enforcement Committee</b> |
| <b>Date of meeting:</b> | <b>28 July 2015</b>   |
| <b>PART:</b>            | <b>I</b>  |
| If Part II, reason:     |   |

|                         |   |
|-------------------------|---|
| <b>Title of report:</b> | <b>Review of licensing policies for alcohol, entertainment and gambling licences</b>  |
| Contact:                | Ross Hill – Licensing Team Leader, Legal Governance   |
| Purpose of report:      | To present draft revisions to the Council’s Statement of Licensing Policy under the Licensing Act 2003, and the Statement of Principles under the Gambling Act 2005.  |
| Recommendations         | That officers commence consultation with responsible authorities, representatives of licence-holders and other persons on the proposed revisions to the Council’s Statement of Licensing Policy under the Licensing Act 2003, and the Statement of Principles under the Gambling Act 2005, and report the results to a future meeting of the Committee. |
| 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>• Performance excellence</li> <li>• Reputation and profile delivery</li> </ul>   |
| Implications:           | <p><u>Equalities</u><br/>A Community Impact Assessment will be presented with the consultation results.</p> <p><u>Financial / Value for Money / Risk / Health &amp; Safety</u><br/>None arising.</p>  |
| Consultees:             | This is a pre-consultation report. If the recommendation is approved, the results of public consultation will be reported to a future meeting of the Committee.   |

|   |   |
|---|---|
| Background papers:  | Draft Statement of Licensing Policy 2016-2021<br>Draft Statement of Principles 2016-2019<br><i>(both circulated separately)</i> |
| Glossary of acronyms and any other abbreviations used in this report: |   |

## 1. BACKGROUND

- 1.1. Two of the major regulatory regimes under which the Council has statutory responsibilities are the licensing of alcohol supplies, regulated entertainment and late night refreshment under the Licensing Act 2003; and of non-remote gambling activities such as betting, prize gaming (including bingo and poker), provision of gaming machines and promotion of lotteries under the Gambling Act 2005.
- 1.2. Both of these Acts require licensing authorities (district councils or unitary authorities) to publish written policies, setting out how they intend to exercise the licensing and enforcement powers conveyed to them under the Acts, the principles that they will follow, and their expectations of licensees. These policies must be periodically reviewed, so as to ensure that they reflect the current legislation, and are relevant to the issues arising in the authority's area.
- 1.3. Dacorum last reviewed its licensing policies in 2010 (Licensing Act 2003) and 2012 (Gambling Act 2005). Both policies are due for review and replacement by January 2016, in order to satisfy the statutory requirements in the Acts.
- 1.4. Officers have prepared revised licensing policy documents under both Acts to take into account recent legislative change and case law, and also to reflect the experiences of the licensing authority and address issues which have emerged in this period. These documents have been circulated under separate cover. The major changes are summarised below, and in addition both documents have undergone comprehensive reformatting and rearrangement, to make them more 'user-friendly'.
- 1.5. The Committee are asked to approve consultation on the revised policies. Both Acts specify a number of requirements for consultation on policy change, including lists of the categories of people who should be consulted, and the consultation on the revised policies will be carried out with regard to these requirements, and to the Government's consultation principles.
- 1.6. An 8-week consultation period is proposed, in order to bring the results to the Committee's October meeting and Full Council in November.
- 1.7. The final decision to adopt or revise a licensing policy under these Acts must be made by Full Council. Following consultation, the Committee will be asked to resolve to recommend the adoption of the revised policies (with any additional revisions after considering the consultation responses) by the Council later this year.

## 2. CHANGES TO STATEMENT OF LICENSING POLICY (LICENSING ACT 2003)

- 2.1. The 2003 Act has seen significant change since the Statement of Licensing Policy was last reviewed, and the licensing authority has been involved in a number of cases which it would be appropriate to reflect within its policy statement.
- 2.2. This has meant that the proposed draft Statement has undergone a thorough rewrite, with almost every section undergoing some form of amendment. It is therefore not considered appropriate to offer a list of changes here, as this is essentially an entirely new document rather than an incremental evolution from the present version.
- 2.3. That said, there are no major changes proposed to the policies adopted by the licensing authority, nor the approach that will be taken to the exercise of functions under the Act. The amendments made aim to reflect the experience of the authority gained over the last 5 years, and to improve the advice and statements of expectations made to licensed businesses, current and prospective, and to other persons affected by those businesses.

### **3. CHANGES TO STATEMENT OF PRINCIPLES (GAMBLING ACT 2005)**

- 3.1. The gambling legislation has seen far fewer changes in recent years, with the majority of amendments affecting the regulation of remote gambling, regulated by the Gambling Commission, rather than non-remote gambling which falls to licensing authorities. As a consequence, fewer changes have been proposed to the Statement of Principles.
- 3.2. The major areas of change which have been proposed include:
  - Clearer statements around moral objections to gambling, and demand issues
  - A reference to the Hertfordshire LEP's ' Better Business For All' business regulation charter, of which Dacorum is a signatory
  - A new principle highlighting that the authority will not accept CCTV as a replacement for an adequate staff presence in licensed premises
  - Highlighting that email is now our preferred means of communication, reflecting the paperless office environment adopted by the Council
  - A reference to primary authority partnerships in the gambling sector
  - Greater information about the provision and use of gaming machines, and the authority's expectations in this area
  - A note about the ongoing controversy around category B2 gaming machines (FOBTs)
  - Update on primary gambling activity issues (now referred to as appropriate licensing environment)
- 3.3. A new section has been added in respect of the local area profile and local risk assessments. These are new provisions included within the (as-yet-unpublished) 5<sup>th</sup> edition of the Gambling Commission's guidance to licensing authorities, which suggests that licensing authorities compile the results of a comprehensive assessment, to help influence the future positioning of gambling premises within their areas. By referencing rather than including this with the policy statement, the authority will have more flexibility to update this as new data becomes available. It is intended that this document will be developed, in conjunction with the responsible authorities and other partner agencies, with a view to publication alongside the Statement of Principles next year.

### **4. RECOMMENDATION**

**4.1. That officers commence consultation with responsible authorities, representatives of licence-holders and other persons on the proposed revisions to the Council's Statement of Licensing Policy under the Licensing Act 2003, and the Statement of Principles under the Gambling Act 2005, and report the results to a future meeting of the Committee.**



## AGENDA ITEM: 7

### SUMMARY

|                         |   |
|-------------------------|---|
| <b>Report for:</b>      | <b>Licensing, Health &amp; Safety and Enforcement Committee</b> |
| <b>Date of meeting:</b> | <b>28 July 2015</b>   |
| <b>PART:</b>            | <b>I</b>  |
| If Part II, reason:     |   |

|                              |  |
|------------------------------|--|
| <b>Title of report:</b>      | <b>Film Classification Guidelines</b>  |
| <b>Contact:</b>              | Ross Hill – Licensing Team Leader, Legal Governance  |
| <b>Purpose of report:</b>    | To approve guidelines for the classification of films by officers under section 20 of the Licensing Act 2003, pending adoption of revisions to the Statement of Licensing Policy   |
| <b>Recommendations</b>       | <ol style="list-style-type: none"> <li>1. That the Committee delegate to the Assistant Director (Chief Executive's Unit), the Group Manager (Legal Governance), and the Team Leader (Licensing) the power to make recommendations and notifications on behalf of the licensing authority in respect of the admission of children to films, under section 20 of the Licensing Act 2003; and</li> <li>2. That the Committee approve the interim guidelines in section 3 of this report for use by officers when exercising the above power, until superseded by the publication of the Council's Statement of Licensing Policy (2016 – 2021).</li> </ol> |
| <b>Corporate objectives:</b> | Dacorum Delivers <ul style="list-style-type: none"> <li>• Efficiencies</li> </ul>  |
| <b>Implications:</b>         | <u>Financial / Value for Money</u><br>Work will be carried out by budgeted licensing staff. If the volume of work undertaken reaches a significant level, it may be possible to look at introducing a charge for the discretionary service, following a review of costs incurred.<br><br><u>Risk / Equalities / Health And Safety Implications</u><br>None identified  |
| <b>Consultees:</b>           | None   |

|   |   |
|---|---|
| Background papers:  | BBFC Classification Guidelines ( <a href="http://www.bbfc.co.uk/what-classification/guidelines">www.bbfc.co.uk/what-classification/guidelines</a> ) |
| Glossary of acronyms and any other abbreviations used in this report: |   |

## 1. BACKGROUND

- 1.1. The Council is responsible for licensing cinemas and other venues which exhibit films for the entertainment of an audience, under the Licensing Act 2003. Most venues showing films on a regular basis will hold a premises licence to authorise this.
- 1.2. The Act requires that every premises licence authorising exhibitions of films is issued subject to a mandatory condition, contained at section 20 of the Act, requiring admission to the film to be restricted in accordance with any age-restriction recommendation made either by a film classification body, or by the licensing authority. Licensing authority recommendations override any other certificate issued by the BBFC, within the local area only. The cinema operator would commit an offence under section 136 of the Act if they were to admit children or young people to film exhibitions in breach of the applicable admission recommendation.
- 1.3. The main film classification body in the UK is the British Board of Film Classification (BBFC), which is an independent body that makes admission recommendations on behalf of local licensing authorities. Almost all major theatrical releases screened in UK cinemas will have been classified by the BBFC, in accordance with classification guidelines adopted by that organisation. The BBFC's classification scheme includes 6 standard 'certificates' for film exhibitions (a slightly modified scheme applies to video recordings sold for home viewing):

| Extracts from the BBFC Classification Guidelines 2014 |  |
|---|--|
| <b>U</b>  | <b>Universal – Suitable for all</b><br>Suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child. U films should be set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror.   |
| <b>PG</b>   | <b>Parental Guidance – General viewing, but some scenes may be unsuitable for young children</b><br>A PG film should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive, children  |
| <b>12A</b>  | <b>Suitable for 12 years and over</b><br>Films classified 12A... contain material that is not generally suitable for children aged under 12. No one younger than 12 may see a 12A film in a cinema unless accompanied by an adult. Adults planning to take a child under 12 to view a 12A film should consider whether the film is suitable for that child.                                  |
| <b>15</b>   | <b>Suitable only for 15 years and over</b><br>No one younger than 15 may see a 15 film in a cinema.  |
| <b>18</b>   | <b>Suitable only for adults</b><br>No one younger than 18 may see an 18 film in a cinema.  |
| <b>R18</b>  | <b>To be shown only in specially licensed cinemas, ... to adults only</b><br>The R18 category is a special and legally-restricted classification primarily for explicit works of consenting sex or strong fetish material involving adults. Films may only be shown to adults in specially licensed cinemas...<br><i>[N.B. Exhibition of R18 films requires a sex establishment licence]</i> |



- 1.4. BBFC classifications for film exhibitions in cinemas are not legally binding in their own right, but become so under the mandatory condition which local licensing authorities are required to attach to premises licences and club premises certificates, as set out above, unless the authority has resolved to override a BBFC recommendation for a particular film and issue its own recommendation. As such, local authorities remain ultimately responsible for determining access restrictions to film exhibitions at licensed cinemas, although it is comparatively rare for local authorities to depart from the recommendations made by the BBFC.
- 1.5. Where the BBFC have classified a film as a '15' or an '18', the effect of the mandatory condition is to require the operators of licensed premises to exclude children under the age of 15 years from showings of 15-rated films, and children under the age of 18 years from 18-rated films. In line with the recommendations, under-18's may be admitted to U- and PG-rated films without restriction or accompaniment, and to 12A-rated films if they are accompanied by an appropriate adult.
- 1.6. The 2003 Act, the statutory Home Office guidance, and the BBFC guidelines are all silent on babies and toddlers being present during the exhibition of films, with no lower age threshold specified within the recommendation. The simplest interpretation of the mandatory condition is therefore that any child aged 0-14 must be excluded from a 15 film, and 0-17 from an 18 film.

## **2. PARENT AND BABY SCREENINGS**

- 2.1. 'Parent and baby screenings' have become an increasingly common offering in UK cinemas in recent years, allowing parents with very young children to watch films in the company of similar parents without needing to make alternate childcare arrangements. Typically these screenings will involve reduced sound levels and brighter-than-normal ambient lighting within the auditorium, to provide a more comforting environment for babies or toddlers and to allow their parents to take care of the children while the film is playing. To comply with the mandatory condition, only U-, PG- or 12A-rated films may be shown during such events, as admission of babies or toddlers to 15- or 18-rated films would constitute a technical breach of the mandatory condition, and thus an offence under section 136 of the 2003 Act. Licensing officers have previously given advice to cinemas within Dacorum about this issue, after receiving complaints from members of the public about the admission of young children and their exposure to adult content.
- 2.2. A number of cinemas have experienced demand for higher-certificate films to be shown at such events. One licensed cinema in Dacorum has recently applied for the variation of their premises licence to allow the showing of higher-certificate films at such events, subject to the licensing authority agreeing to this on a film-by-film basis and issuing alternate recommendations. After an initial representation was made by licensing officers on a technical issue, discussions led to a modification to the application, and the variation has since been granted under delegated authority.
- 2.3. The Committee has previously delegated authority to officers to issue admission recommendations in respect of unrated films. It is now proposed that this delegation be extended to any film, so that officers can respond quickly and efficiently to requests for alternate recommendations in the above scenario.
- 2.4. As the same time, officers are also asking the Committee to approve a set of interim guidelines for the classification of films in these situations. These will ultimately be contained within the revised Statement of Licensing Policy when it is

published next year, and so these guidelines are intended simply as a stopgap until that time.

### **3. GUIDELINES FOR ALTERNATE CLASSIFICATIONS**

- 3.1. When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that officers will follow the BBFC's Classification Guidelines ([www.bbfc.co.uk/what-classification/guidelines](http://www.bbfc.co.uk/what-classification/guidelines)), and where possible will issue a recommendation which is in accordance with one of the standard 'certificates'. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 3.2. Where the licensing authority receives a request to override an existing recommendation to facilitate a 'parent and baby' screening, in the first instance officers will have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If officers believe that the content will not present any issues if viewed by children under 24 months of age, then they may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than strong language, mild nudity and discriminatory content will.
- 3.3. Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, officers may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless officers are satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

### **4. RECOMMENDATION**

- 4.1. That the Committee delegate to the Assistant Director (Chief Executive's Unit), the Group Manager (Legal Governance), and the Team Leader (Licensing) the power to make recommendations and notifications on behalf of the licensing authority in respect of the admission of children to films, under section 20 of the Licensing Act 2003; and
- 4.2. That the Committee approve the interim guidelines in section 3 of this report for use by officers when exercising the above power, until superseded by the publication of the Council's Statement of Licensing Policy (2016 – 2021).



## AGENDA ITEM: 8

### SUMMARY

|                         |   |
|-------------------------|---|
| <b>Report for:</b>      | <b>Licensing, Health &amp; Safety and Enforcement Committee</b> |
| <b>Date of meeting:</b> | <b>28 July 2015</b>   |
| <b>PART:</b>            | I   |
| If Part II, reason:     |   |

|                         |  |
|-------------------------|--|
| <b>Title of report:</b> | <b>Animal Boarding Establishment Licence Conditions</b>  |
| Contact:                | Ross Hill – Licensing Team Leader, Legal Governance  |
| Purpose of report:      | To inform the Committee of new types of business which are subject to licensing requirements under the Animal Boarding Establishments Act 1963   |
| Recommendations         | <ol style="list-style-type: none"> <li>1. That the Committee delegate authority to impose and vary animal boarding establishment licence conditions to the Assistant Director (Chief Executives Unit), the Group Manager (Legal Governance) and the Team Leader (Licensing); OR</li> <li>2. That the Committee adopt new standard conditions for animal boarding establishments providing dog daycare in a home environment, and in an outdoor environment.</li> </ol> |
| 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 / Value for Money</u><br/>If condition-setting is delegated to officers, fewer applications will require determination by the Licensing Sub-Committee.</p> <p><u>Health And Safety</u><br/>The legislation is centred on the need to ensure the safety and welfare of the animals being accommodated, the business proprietor/staff and the general public.</p> <p><u>Risk / Equalities</u><br/>None identified</p>                                    |
| Consultees:             | Officers are liaising with applicable businesses to determine appropriate condition sets.  |

|   |   |
|---|---|
| Background papers:  | Animal Boarding Establishments Act 1963 |
| Glossary of acronyms and any other abbreviations used in this report: |   |

At the time of publication, work is ongoing on this issue. This report will therefore be given verbally at the meeting.



## AGENDA ITEM: 9

### SUMMARY

|                         |   |
|-------------------------|---|
| <b>Report for:</b>      | <b>Licensing, Health &amp; Safety and Enforcement Committee</b> |
| <b>Date of meeting:</b> | <b>28 July 2015</b>   |
| <b>PART:</b>            | <b>I</b>  |
| If Part II, reason:     |   |

|   |   |
|---|---|
| <b>Title of report:</b>   | <b>Licensing Sub-Committee Procedures</b>   |
| Contact:  | Ross Hill – Licensing Team Leader, Legal Governance   |
| Purpose of report:  | To agree modified standard procedures for hearings conducted by the two Licensing Sub-Committees  |
| Recommendations   | That the revised procedures be adopted for use by the Licensing, Health & Safety and Enforcement Sub-Committee and the Licensing of Alcohol and Gambling Sub-Committee. |
| Corporate objectives:   | Dacorum Delivers <ul style="list-style-type: none"> <li>• Performance excellence</li> </ul>   |
| Implications:   | <u>Financial / Value for Money / Risk / Equalities / Health And Safety Implications</u><br>None identified  |
| Consultees:   | None  |
| Background papers:  | Licensing Act 2003 (Hearings) Regulations 2005  |
| Glossary of acronyms and any other abbreviations used in this report: |   |

## 1. COMMITTEE STATUS

- 1.1. The Committee is responsible for appointing two sub-committees to determine contested or controversial applications. These are:
  - a) The Licensing of Alcohol and Gambling Sub-Committee, consisting of 3 members drawn from the full Committee membership for each meeting, which is responsible for determining contested applications for alcohol, entertainment, late night refreshment, gambling and sex establishment licences; and
  - b) The Licensing, Health & Safety and Enforcement Sub-Committee, consisting of 7 members appointed annually by the full Committee, which is responsible for all other licensing matters.
- 1.2. The Committee is responsible for regulating the way in which it, and its Sub-Committees, conduct meetings and hearings, subject to compliance with the Council's Committee Rules, and in the case of the Alcohol and Gambling Sub-Committee, the Licensing Act 2003 (Hearings) Regulations 2005.
- 1.3. It is now proposed to amend the standard procedures followed by the Sub-Committees, to update them and ensure consistency in all of the hearings that the Sub-Committees conduct.
- 1.4. As part of this process, it is intended to amend the procedures so that the Alcohol and Gambling Sub-Committee has the discretion to deliberate in a closed session, as the Health & Safety Sub-Committee typically does. This will enable Members to discuss the evidence that they have heard more freely, and will allow Members to compile both their decision and their reasons fully, before announcing these.

## 2. RECOMMENDATION

- 2.1. **That the Committee adopt the revised Sub-Committee procedures attached at Annexes A to D and apply these to all future meetings of the Licensing of Alcohol and Gambling Sub-Committee and the Licensing, Health & Safety and Enforcement Sub-Committee.**

**PROCEDURE FOR HEARINGS CONDUCTED BY THE  
LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE  
(PREMISES-RELATED APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

1. The Chairman will open the meeting by:
  - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
  - b) Stating the nature of the matter to be considered (including a reference to the name of the premises or place concerned); and
  - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
  - a) The Chairman will establish whether any parties wish to nominate a spokesman to speak on behalf of several parties;
  - b) The Sub-Committee will consider:
    - i) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
    - ii) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
3. The Chairman will establish whether Members of the Sub-Committee:
  - a) have an interest to declare;
  - b) have visited the premises or place which is the the subject of the application;
  - c) have read the papers before them.
4. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
5. Members may ask any relevant question of any Officer.
6. The Chairman will ask the parties to address the Sub-Committee in the following order:
  - a) In the case of a review application:
    - i) The review applicant (or police/council officer, if the review follows a closure order);
    - ii) The licence-holder;
    - iii) Any responsible authority or other person who has made a relevant representation to the application.
  - b) In any other case:
    - i) The applicant;
    - ii) Any responsible authority or other person who has made a relevant representation to the application.
7. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
8. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.

9. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of the view that it is required in order for Members to consider the representations, application or notice.
10. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
11. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
12. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
13. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the licensing authority to all parties after the hearing.

#### **Absent parties**

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

#### **Time limits**

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

#### **Exclusion**

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.



**PROCEDURE FOR HEARINGS CONDUCTED BY THE  
LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE  
(PERSONAL LICENCE APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

N.B. Hearings relating to personal licences will typically be conducted under Part 2 rules. The Sub-Committee should resolve at the beginning of the meeting to exclude the public and press from the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information.

1. The Chairman will open the meeting by:
  - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
  - b) Stating the nature of the matter to be considered (including a reference to the name of the individual concerned); and
  - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
3. The Sub-Committee will consider:
  - a) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
  - b) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
4. The Chairman will establish whether Members of the Sub-Committee:
  - a) have an interest to declare;
  - b) have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask the parties to address the Sub-Committee in the following order:
  - a) The personal licence applicant;
  - b) The police
8. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
9. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.
10. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of

the view that it this required in order for Members to consider the representations, application or notice.

11. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
12. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
13. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
14. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the licensing authority to all parties after the hearing.

### **Absent parties**

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

### **Time limits**

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

### **Exclusion**

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.

**PROCEDURE FOR HEARINGS CONDUCTED BY THE  
LICENSING, HEALTH & SAFETY AND ENFORCEMENT SUB-COMMITTEE  
(PREMISES-RELATED APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

1. The Chairman will open the meeting by:
  - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
  - b) Stating the nature of the matter to be considered (including a reference to the name of the individual concerned); and
  - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
  - a) The Chairman will establish whether any parties wish to nominate a spokesman to speak on behalf of several parties;
  - b) The Sub-Committee will consider:
    - i) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
    - ii) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
3. The Chairman will establish whether Members of the Sub-Committee:
  - a) have an interest to declare;
  - b) have visited the premises or place which is the the subject of the application;
  - c) have read the papers before them.
4. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
5. Members may ask any relevant question of any Officer.
6. The Chairman will ask the parties to address the Sub-Committee in the following order:
  - a) The applicant;
  - b) Any other person who has made a relevant representation to the application.
7. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
8. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.
9. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of the view that it this required in order for Members to consider the representations, application or notice.
10. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.

11. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
12. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
13. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the legal advisor to all parties after the hearing.

#### **Absent parties**

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

#### **Time limits**

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

#### **Exclusion**

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.

**PROCEDURE FOR HEARINGS CONDUCTED BY THE  
LICENSING, HEALTH & SAFETY AND ENFORCEMENT SUB-COMMITTEE  
(INDIVIDUAL LICENCE APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

N.B. Hearings relating to licences for individuals will typically be conducted under Part 2 rules. The Sub-Committee should resolve at the beginning of the meeting to exclude the public and press from the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information.

1. The Chairman will open the meeting by:
  - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
  - b) Stating the nature of the matter to be considered (including a reference to the name of the individual concerned); and
  - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
3. The Sub-Committee will consider:
  - a) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
  - b) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
4. The Chairman will establish whether Members of the Sub-Committee:
  - a) have an interest to declare;
  - b) have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask the parties to address the Sub-Committee in the following order:
  - a) The applicant (or licence-holder, if suspension or revocation is proposed);
  - b) Any other person who has made a relevant representation to the application.
8. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
9. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.
10. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of

the view that it this required in order for Members to consider the representations, application or notice.

11. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
12. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
13. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
14. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the legal advisor to all parties after the hearing.

### **Absent parties**

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

### **Time limits**

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

### **Exclusion**

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.



## AGENDA ITEM: 10

### SUMMARY

|                         |   |
|-------------------------|---|
| <b>Report for:</b>      | <b>Licensing, Health &amp; Safety and Enforcement Committee</b> |
| <b>Date of meeting:</b> | <b>28 July 2015</b>   |
| <b>PART:</b>            | I   |
| If Part II, reason:     |   |

|                           |  |
|---------------------------|--|
| <b>Title of report:</b>   | <b>Deregulation Act 2015 – Private Hire Services</b>   |
| <b>Contact:</b>           | Ross Hill – Licensing Team Leader, Legal Governance  |
| <b>Purpose of report:</b> | <ol style="list-style-type: none"> <li>1. To advise the Committee of upcoming deregulation affecting the regulation of private hire services</li> <li>2. To approve necessary amendments to licensing procedures arising from these changes</li> </ol>   |
| <b>Recommendations</b>    | <p>That Committee approve the following changes to licensing procedures, with effect from the 1<sup>st</sup> October 2015:</p> <ol style="list-style-type: none"> <li>a) That the option of applying for a 1-year hackney carriage driver, private hire driver, or dual driver licence be withdrawn;</li> <li>b) That use of the DBS Update service will be permitted for drivers, in place of the requirement to obtain a new DBS Enhanced Disclosure certificate (the original disclosure certificate must state the applicant's occupation as either a taxi driver, private hire driver or similar, and must be an enhanced disclosure. Where an update cannot be obtained, a new enhanced disclosure must be supplied);</li> <li>c) That the standard duration of private hire operator's licences granted shall increase to 5 years;</li> <li>d) That the fee payable for a private hire operator's licence for applications be set for the period 1<sup>st</sup> October 2015 to 31<sup>st</sup> March 2016 at:             <ol style="list-style-type: none"> <li>i. £378.00, for operators with 1-3 private hire vehicles</li> <li>ii. £636.00, for operators with 4+ private hire vehicles</li> </ol> </li> </ol> |

|   |  |
|---|--|
| Corporate objectives:   | <p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>• Maintain a clean and safe environment</li> </ul>  |
| Implications:   | <p><u>Financial</u><br/>There will be a reduction of income as a result of the changes to licence duration.</p> <p><u>Value for Money</u><br/>Licences will be valid for a longer duration, and with less frequent administration will represent better value for money.</p> <p><u>Risk / Health And Safety Implications</u><br/>No new powers have been given to licensing officers to stop or question out of borough drivers who may now be working legitimately in this area.</p> <p>There is an increased likelihood of customer confusion, as out-of-borough vehicles may arrive to fulfil a job booked through a Dacorum operator.</p> <p><u>Equalities Implications</u><br/>This report details a change in the law, for which the Government produced an impact assessment.</p> |
| Consultees:   | Changes to fees will be subject to a public notice and objection process after being set.  |
| Background papers:  |  |
| Glossary of acronyms and any other abbreviations used in this report: |  |

## 1. BACKGROUND

- 1.1. One of the last pieces of legislation passed by the Coalition Government was the Deregulation Act 2015. This is a particularly wide-ranging statute covering a whole host of issues, which included a number of changes to licensing legislation affecting taxi and private hire licensing, and alcohol and entertainment licensing. This report focusses on the changes to taxi and private hire licensing.
- 1.2. Changes to taxi legislation were a fairly late addition to the Act during its progress through Parliament, with the Government originally bringing forward three proposals from the draft reform Bill put forward in 2014 by the Law Commission. These were:
  - a) To standardise the licence duration for hackney carriage and private hire driver's licences as three years, and for private hire operator's licences as five years (with discretion to issue a shorter licence if the circumstances warrant this – currently councils may set the duration as any period up to three or five years, respectively);



- b) To allow unlicensed persons to drive 'off-duty' private hire vehicles for social, domestic or pleasure purposes (currently only licensed private hire drivers may drive a private hire vehicle);
  - c) To permit sub-contracting of private hire bookings between licensed private hire operators across council boundaries (currently bookings may only be sub-contracted to another operator within the same licensing area, to be fulfilled by a driver and vehicle licensed by the same council).
- 1.3. The 'off-duty' proposal was dropped in the face of opposition from the Local Government Association, safety charities and campaigners. The other two proposals have become law, to be commenced on the 1<sup>st</sup> October 2015.
- 1.4. The full range of measures proposed by the Law Commission, including additional enforcement powers for licensing authorities to prevent abuse of the cross-border sub-contracting relaxation, have not been taken forward at this time. We await the Government's decision as to how to progress the much-needed reform to the legislative framework for this area.

## **2. CHANGES TO DRIVER LICENCES**

- 2.1. At the present time, the Council issues hackney carriage driver, private hire driver and dual driver licences for a duration of 3 years. This means that the Council is already complying with the revised legislation for the vast majority of our licences.
- 2.2. The Council currently offers the option of applying for a 1-year driver's licence, where the driver wishes to utilise this (for example, if they are planning to retire within the next year), and charges a loss-making fee for such licences. This is viewed as incompatible with the amended legislation, which states that licences should last for 3 years in all but exceptional circumstances. It is therefore proposed to withdraw this option, although Sub-Committees will retain the option of issuing a shorter licence, if a particular circumstance of a case warrants this (e.g. medical issues). It is believed that the 1-year licence option has only been used once in the last 2 years, so this should have a minimal impact.
- 2.3. Although not arising from the Deregulation Act, a further change to driver licensing procedures is also proposed – to begin accepting use of the Disclosure and Barring Service's (DBS) Update Service as an alternative to requiring a new disclosure certificate. The Update Service was launched around 18 months ago, and allows an individual who has received a criminal record disclosure certificate to pay an annual subscription fee, in return for ongoing monitoring of their criminal record status. With the subject's consent, licensing authorities or prospective employers can verify that the data held on the original certificate remains correct, several years after it was issued (providing that the subscription has been maintained continuously). If any changes (e.g. new convictions) are detected, then the system will state this, and the driver will be obliged to obtain a new certificate (at which point they can resubscribe). The system has been in use for around 18 months and feedback from licensing authorities who have used it is generally positive. The biggest benefit would be for drivers who are licensed by several different authorities, as it would save them from having to apply for multiple disclosure certificates (at a cost of £44 a time). There would be a smaller benefit to drivers licensed by a single authority – over a 3-year licence duration, the Update subscription would cost £39, as opposed to £44 to obtain a new certificate.

- 2.4. Use of the Update service would remain discretionary – drivers would not be obliged to subscribe, and will still be asked to complete a new enhanced disclosure certificate on each application if they have not subscribed.

### 3. CHANGES TO OPERATOR LICENCES

- 3.1. At the present time, the Council issues private hire operator licences for a duration of 2 or 3 years, dependent upon the amount of vehicles that the operator (intends to) provide bookings for. Following the changes, this duration will need to increase to 5 years (although Sub-Committees will retain the option of issuing a shorter licence, if a particular circumstance of a case warrants this).

- 3.2. The changes to sub-contracting rules are summarised in the box below:

- Operator licensed by ABC Council receives a booking.
- He can either:
  - fulfill that booking using an ABC Vehicle and ABC Driver; or
  - sub-contract that booking to an Operator licensed by ABC Council, to fulfil using an ABC Vehicle and ABC Driver.
  - sub-contract that booking to an Operator licensed by XYZ Council, to fulfil using an XYZ Vehicle and XYZ Driver.

However:

- ABC Officers will be able to inspect ABC Operator's records, which will show that the booking was sub-contracted to another Operator, but not the vehicle/driver who undertook the fare.
- ABC Officers will not have powers to inspect XYZ Operator's records (unless joint delegations are in place).
- ABC Officers will not have specific powers to stop or inspect the XYZ Vehicle (unless joint delegations are in place).
- There is no requirement for ABC Operator to tell the customer to expect an XYZ Vehicle, although this will be recommended as good practice.
- The Act stipulates that ABC Operator and XYZ Operator can be the same person/company, holding licences from both councils.
- The Act is silent on the issue of commissions or booking fees payable to the first operator.
- The Act is also silent on what constitutes a sub-contract – there would appear to be nothing to stop an agreement that every booking received by ABC Operator will be fulfilled by XYZ Operator, so that ABC Operator would not employ any drivers or vehicles directly.

- 3.3. The longer duration licences mean that it is necessary to review the fees charged for those licences. Fees are set on a cost-recovery basis, and include components for both the administrative processes involved in issuing a licence, and the ongoing enforcement and compliance work undertaken to inspect records, resolve complaints and general supervise and control the vehicle fleet. Although a longer-duration licence will mean that the administrative work is undertaken less frequently, it will be necessary to reflect the additional enforcement and compliance work carried out over the longer licence duration.

3.4. Having examined costings, it is therefore recommended that the fee levels be set, for the period from 1<sup>st</sup> October 2015 to 31<sup>st</sup> March 2016 at

- i. £378.00, for operators with 1-3 private hire vehicles
- ii. £636.00, for operators with 4+ private hire vehicles

3.5. Officers have reviewed the standard conditions applied to operators licences, and believe that no amendments are necessary to these as a result of the legislative changes.

#### **4. RECOMMENDATIONS**

4.1. That Committee approve the following changes to licensing procedures, with effect from the 1<sup>st</sup> October 2015:

- a) That the option of applying for a 1-year hackney carriage driver, private hire driver, or dual driver licence be withdrawn;
- b) That use of the DBS Update service will be permitted for drivers, in place of the requirement to obtain a new DBS Enhanced Disclosure certificate (the original disclosure certificate must state the applicant's occupation as either a taxi driver, private hire driver or similar, and must be an enhanced disclosure – where an update cannot be obtained, a new enhanced disclosure must be supplied);
- c) That the standard duration of private hire operator's licences granted shall increase to 5 years;
- d) That the fee payable for a private hire operator's licence for applications be set for the period 1<sup>st</sup> October 2015 to 31<sup>st</sup> March 2016 at:
  - i. £378.00, for operators with 1-3 private hire vehicles
  - ii. £636.00, for operators with 4+ private hire vehicles

## **11. 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:

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**DACORUM BOROUGH COUNCIL**

**LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE**

**3 FEBRUARY 2015**

\*\*\*\*\*

Present –

**MEMBERS:**

Councillors Mrs Green (Chairman), Bhinder, Conway, Fantham, Hearn (Vice-Chairman), Link, Peter, Ryan, G Sutton, R Sutton and Whitman

**OFFICERS:**

|             |                               |
|-------------|-------------------------------|
| B Lisgarten | Legal Governance Team Leader  |
| R Hill      | Licensing Team Leader         |
| R Mabbitt   | Licensing Enforcement Officer |
| T Coston    | Member Support Officer        |

**OTHERS:**

Mr Hanlon – Item 5  
Ms Parr – Item 5  
Mr McIlvaney – Item 5  
Mr Carrington – Item 5  
Mr Khan – Item 5

The meeting began at 7.30 pm

**1. MINUTES**

The minutes of the meeting held on 25 November 2014 were confirmed by the Members present and signed by the Chairman.

**2. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of Councillor Taylor and Mrs G Chapman. Councillor Mrs G Chapman was substituted by Councillor R Sutton.

**3. DECLARATIONS OF INTERESTS**

There were no declarations of interest.

**4. PUBLIC PARTICIPATION**

The Chairman advised that the four members of public that had registered to speak would be invited to do so under the item of licensing fees and charges 2015/16.

**5. LICENSING FEES AND CHARGES 2015/16**

R Hill made the following statement: *The report before the Committee sets out proposed fees for licences and registrations issued by the Licensing team for the next financial year. The proposed fees have been made available for consultation since early December, and the results of consultation are included in the agenda. 16 comments have been received from the taxi and private hire trade, expressing concerns about the proposals to increase their fees. No comments have been received in respect of any other service areas.*

*There seems to have been some misunderstandings within many of the comments, which I would like to address now. The proposed increase to a hackney carriage vehicle licence is 7.5%, not 9% as has been stated. The current fees will have been in place for 2 years by April, there was no increase last year, as despite higher costs it would not have been cost-effective to increase fees, given the high cost of giving the required public notice of the change. If the proposals are adopted, these will be only the second increase to taxi licence fees since 2004.*

*A number of the comments assert that we can only recover the cost of the MOT test, this is incorrect. The fee-setting power is summarised at the bottom of page 6, and for vehicle and operator licences we may recover the cost of inspecting the vehicle, the costs of providing taxi ranks (a lot of work is currently going on to find new rank locations), the administration costs of providing the licensing function (from sending out application packs, through the processing and issue of a licence, to processing of the test results and invoice a month later), and finally the costs of controlling and supervising the taxi and private hire fleet within Dacorum.*

*A number of the commenters have had sight of a response to a Freedom of Information enquiry regarding the cost calculations used by officers in proposing the fees, and have queried the amount of times apportioned to both administrative processing and compliance work. In my opinion, the figures used (2.25 hours admin, 2.5 hours compliance) are conservative calculations, reflecting all of the work carried out in the administrative process of considering a licence application, and of compliance work throughout the year. Some misunderstandings have also arisen about the hourly rates used for fee calculations – these include a proportion of all overheads and on-costs incurred in the running of the Licensing service, as well as salaries and other direct costs.*

*A table has been included at Annex D showing the comparable fees charged by neighbouring authorities. It is difficult to compare fees like for like, as some include test costs or other expenses while others do not, but hopefully this provides a basic level of comparison. It should be noted that, with one or two exceptions, Dacorum's taxi licence fees are lower than those charged by other authorities in the local area.*

*Four of the comments contained requests to address the Committee, as detailed at para 3.3 of the report.*

The Chairman invited Mr Hanlon to speak. Mr Hanlon queried why the time had increased for administration. He said there was already an increase of £18 on top of the original £40 fee and felt this was very steep in two years.

The Chairman invited Ms Parr to speak. Ms Parr disputed the length of time taken to process renewal application and queried how they had been broken down. She said the administration staff were not legally training and felt the service would be better if it was outsourced. She felt that the cost increase was not valid, was excessive and the service was not user friendly. She explained that she was often unable to get through to staff members telephones and believed that the previous system of making face-to-face appointments worked much better. She said they should be working together but believed they have been distanced.

The Chairman invited Mr Khan to speak. Mr Khan felt that an increase of 7.5% was excessive and the time taken for administration was unjustified. He referred to the table at Annex D and felt the price differences needed clarification. He found it strange that council charges were increasing yet generally prices were going down and said it wasn't fair that the council play catch-up with the fees.

The Chairman invited Mr McIlvaney to speak. Mr McIlvaney strongly objected to the increase and felt the information provided did not justify it as licensing are not there to make a profit. He said there would be no time left to deal with anything else if it took a licensing officer 2.5 hours to process each licence for each vehicle. He explained that R Hill had added extra fields to the application form which had made it longer to complete so didn't feel surprised that people were missing some of the information. He referred to the policy and service development information and queried its meaning. He asked what happened to the interest on the badges and deposits for their plates.

R Hill asked to clarify some of the points raised by those present;

- He gave reassurance that the measurements provided were the process of licences for administration staff from start to finish and said they were potentially undercharging.
- He advised the licensing account was in deficit.
- He said they cannot charge against unlicensed vehicles and that was not factored in to the price increase.
- He explained that missing information was not only the forms not being correctly completely or fully but also missing documentation or not attending with the necessary information as requested.
- He agreed that the face-to-face availability had been removed but was looking for ways to bring it back again and already had a couple of options to put forward.
- He advised it was £16 per set for plate materials and 40% of applications require new plates so that has been factored in to the price.
- He referred to the comparison table at Annex D and said they were following the recommended best practice and despite St. Albans drivers receiving a 60% discount for being a resident; their taxi fares were significantly lower than Dacorum's.
- He explained this was a medium-long term plan which will be revised again and if possible they would reduce the fees.
- He advised that licensing have four full time employees but two of them work mainly on applications.
- He agreed he did increase the information on the forms, however this was data being requested by the council and from the council.

Councillor Bhinder said he was against people paying the price for other people's mistakes and asked if they could look at introducing a penalty charge instead for those that don't complete the forms fully or fail to provide necessary documentation. R Hill replied they had no legal mechanism that would allow them to do that.

Councillor Bhinder asked what had gone wrong in the council and what had changed to cause two price increases two years in a row. R Hill explained that he joined the council in 2012 and needed to restore the licensing department. He said one of the biggest problems was the failure to review the fees and therefore the increase has had to be larger than desirable. Councillor Bhinder said he was surprised by R Hill's reply. He suggested the increase would effectively be passed on to the customer. Councillor Fantham noted the reduction in fuel prices and felt that should be passed on to the customer.

Councillor Whitman said the increase didn't feel right and felt he couldn't support it.

Councillor Bhinder suggested the cost could be spread over a period of time instead of all at once. R Hill explained that they are required to give a statutory notice in the newspaper which costs £800 and exceeds the revenue.

Councillor G Sutton said the increase worked out to just after £1 a week and unfortunately prices do have to rise now and then.

It was proposed by Councillor Hearn and seconded by Councillor G Sutton that they adopt the proposed fees and charges.

Voting:

7 for, 2 against and 1 abstention;

Whereupon it was:

Resolved:

The Licensing and Health & Safety Enforcement Committee agreed that the fees and charges from 1 April 2015 to 31 March 2016 are set at the levels below:

| Item   |                            | Current fee<br>2014-15 | Proposed<br>fee<br>2015-16 | %<br>change |
|--|----------------------------|------------------------|----------------------------|-------------|
| <b>1.1 General service charges</b>   |                            |                        |                            |             |
| Photocopies (per A4 side, at officers discretion, subject to legal restrictions)               |                            | 0.20                   | 0.20                       | 0.0%        |
| Copy of interview recording following PACE interview (per tape/disc)                           |                            | 15.00                  | 15.00                      | 0.0%        |
| Copy of public register entry (where kept and made available by statute) (per entry)           |                            | 15.00                  | 15.00                      | 0.0%        |
| Request for duplicate copy of licence following loss/theft/damage (where not otherwise listed) |                            | 15.00                  | 15.00                      | 0.0%        |
| <b>3.1 Animal boarding</b>   |                            |                        |                            |             |
| Application for new animal boarding establishment licence (up to 1yr)                          | <i>plus vet inspection</i> | 320.00                 | 320.00                     | 0.0%        |
| Application to renew animal boarding establishment licence (1yr)                               | <i>plus vet inspection</i> | 210.00                 | 220.00                     | 4.8%        |
| Application to vary animal boarding establishment licence                                      | <i>plus vet inspection</i> | 150.00                 | 145.00                     | -3.3%       |
| Application for new animal boarding establishment licence (home boarding) (up to 1yr)          |                            | 170.00                 | 180.00                     | 5.9%        |
| Application to renew animal boarding establishment licence (home boarding) (1yr)               |                            | 110.00                 | 120.00                     | 9.1%        |
| Application to vary animal boarding establishment licence (home boarding)                      |                            | 90.00                  | 100.00                     | 11.1%       |
| Veterinary inspection of premises  |                            | Recharged at cost      |                            |             |
| <b>3.2 Dangerous wild animals</b>  |                            |                        |                            |             |
| Application for licence to keep dangerous wild animals (2yr)                                   | <i>plus vet inspection</i> | 325.00                 | 325.00                     | 0.0%        |
| Application to renew licence to keep dangerous wild animals (2yr)                              | <i>plus vet inspection</i> | 325.00                 | 325.00                     | 0.0%        |
| Application to vary licence conditions (new species/increased numbers of animals)              |                            | 210.00                 | 210.00                     | 0.0%        |



| Item   |                                    | Current fee<br>2014-15 | Proposed<br>fee<br>2015-16 | %<br>change |
|--|------------------------------------|------------------------|----------------------------|-------------|
| Application to vary licence conditions (administrative matters only) |                                    | 65.00                  | 65.00                      | 0.0%        |
| Veterinary inspection of premises                                    |                                    | Recharged at cost      |                            |             |
| <b>3.3 Dog breeding</b>  |                                    |                        |                            |             |
| Application for new dog breeding licence (1yr)                       |                                    | 245.00                 | 252.00                     | 2.9%        |
| Application to renew dog breeding licence (1yr)                      |                                    | 190.00                 | 195.00                     | 2.6%        |
| <b>3.4 Pet shops</b>   |                                    |                        |                            |             |
| Application for new pet shop licence (1yr)                           |                                    | 225.00                 | 189.00                     | -16.0%      |
| Application for new pet shop licence (fish only) (1yr)               |                                    | 150.00                 | 142.00                     | -5.3%       |
| Application to renew pet shop licence (1yr)                          |                                    | 125.00                 | 130.00                     | 4.0%        |
| Application to renew pet shop licence (fish only) (1yr)              |                                    | 90.00                  | 95.00                      | 5.6%        |
| <b>3.5 Riding establishments</b>                                     |                                    |                        |                            |             |
| Application for riding establishment licence (1yr)                   | <i>plus vet inspection</i>         | 310.00                 | 318.00                     | 2.6%        |
| Veterinary inspection of premises                                    |                                    | Recharged at cost      |                            |             |
| <b>3.6 Zoos</b>  |                                    |                        |                            |             |
| Application for new zoo licence (4yr)                                |                                    | 2,000.00               | 2,000.00                   | 0.0%        |
| Application to renew zoo licence (6yr)                               |                                    | 1,600.00               | 1,600.00                   | 0.0%        |
| Application to vary zoo licence                                      |                                    | 1,600.00               | 1,600.00                   | 0.0%        |
| Application to transfer zoo licence                                  |                                    | 600.00                 | 600.00                     | 0.0%        |
| Veterinary inspection of premises                                    |                                    | Recharged at cost      |                            |             |
| <b>4.1 Gambling notices</b>  |                                    |                        |                            |             |
| Temporary use notice submission fee                                  |                                    | 350.00                 | 350.00                     | 0.0%        |
| Duplicate copy of temporary use notice following theft/loss/damage   |                                    | 15.00                  | 15.00                      | 0.0%        |
| Occasional use notice submission fee                                 |                                    | No fee                 | No fee                     |             |
| <b>4.3 Gambling premises licences</b>                                |                                    |                        |                            |             |
| Application for new premises licence (without provisional statement) | <i>Adult gaming centre</i>         | 1,340.00               | 1,340.00                   | 0.0%        |
|  | <i>Betting (track)</i>             | 1,670.00               | 1,670.00                   | 0.0%        |
|  | <i>Betting (other)</i>             | 2,000.00               | 2,000.00                   | 0.0%        |
|  | <i>Bingo</i>                       | 2,450.00               | 2,450.00                   | 0.0%        |
|  | <i>Family entertainment centre</i> | 1,200.00               | 1,200.00                   | 0.0%        |
| Application for new premises licence (with provisional statement)    | <i>Adult gaming centre</i>         | 800.00                 | 800.00                     | 0.0%        |
|  | <i>Betting (track)</i>             | 640.00                 | 640.00                     | 0.0%        |
|  | <i>Betting (other)</i>             | 800.00                 | 800.00                     | 0.0%        |
|  | <i>Bingo</i>                       | 840.00                 | 840.00                     | 0.0%        |
|  | <i>Family entertainment centre</i> | 570.00                 | 570.00                     | 0.0%        |
| Application for provisional statement                                | <i>Adult gaming centre</i>         | 1,340.00               | 1,340.00                   | 0.0%        |
|  | <i>Betting (track)</i>             | 1,670.00               | 1,670.00                   | 0.0%        |
|  | <i>Betting (other)</i>             | 2,000.00               | 2,000.00                   | 0.0%        |
|  | <i>Bingo</i>                       | 2,450.00               | 2,450.00                   | 0.0%        |
|  | <i>Family entertainment centre</i> | 1,200.00               | 1,200.00                   | 0.0%        |
| Application for variation of premises licence                        | <i>Adult gaming centre</i>         | 670.00                 | 670.00                     | 0.0%        |
|  | <i>Betting (track)</i>             | 840.00                 | 840.00                     | 0.0%        |
|  | <i>Betting (other)</i>             | 1,000.00               | 1,000.00                   | 0.0%        |

| Item  |                                    | Current fee<br>2014-15 | Proposed<br>fee<br>2015-16 | %<br>change |
|---|------------------------------------|------------------------|----------------------------|-------------|
|   | <i>Bingo</i>                       | 1,225.00               | 1,225.00                   | 0.0%        |
|   | <i>Family entertainment centre</i> | 600.00                 | 600.00                     | 0.0%        |
| Application for transfer of premises licence  | <i>Adult gaming centre</i>         | 800.00                 | 800.00                     | 0.0%        |
|   | <i>Betting (track)</i>             | 640.00                 | 640.00                     | 0.0%        |
|   | <i>Betting (other)</i>             | 800.00                 | 800.00                     | 0.0%        |
|   | <i>Bingo</i>                       | 840.00                 | 840.00                     | 0.0%        |
|   | <i>Family entertainment centre</i> | 570.00                 | 570.00                     | 0.0%        |
| Application for reinstatement of premises licence   | <i>Adult gaming centre</i>         | 800.00                 | 800.00                     | 0.0%        |
|   | <i>Betting (track)</i>             | 640.00                 | 640.00                     | 0.0%        |
|   | <i>Betting (other)</i>             | 800.00                 | 800.00                     | 0.0%        |
|   | <i>Bingo</i>                       | 840.00                 | 840.00                     | 0.0%        |
| Annual fee (payable 30 days after the licence takes effect, and then annually on the anniversary of the grant of the licence) | <i>Adult gaming centre</i>         | 670.00                 | 670.00                     | 0.0%        |
|   | <i>Betting (track)</i>             | 670.00                 | 670.00                     | 0.0%        |
|   | <i>Betting (other)</i>             | 420.00                 | 420.00                     | 0.0%        |
|   | <i>Bingo</i>                       | 700.00                 | 700.00                     | 0.0%        |
|   | <i>Family entertainment centre</i> | 450.00                 | 450.00                     | 0.0%        |
| Duplicate copy of licence following theft/loss/damage   |                                    | 15.00                  | 15.00                      | 0.0%        |
| Change of name or address on premises licence   |                                    | 35.00                  | 35.00                      | 0.0%        |
| <b>5.1 Street collections</b>   |                                    |                        |                            |             |
| Application for street collection licence   |                                    | No fee                 | No fee                     |             |
| <b>5.2 House to house collections</b>   |                                    |                        |                            |             |
| Application for house to house collection licence   |                                    | No fee                 | No fee                     |             |
| <b>6.1 Taxi and private hire drivers</b>  |                                    |                        |                            |             |
| Application for HC driver licence   | <i>1 year</i>                      | 70.00                  | 74.00                      | 5.7%        |
|   | <i>3 years</i>                     | 130.00                 | 138.00                     | 6.2%        |
| Application for PH driver licence   | <i>1 year</i>                      | 70.00                  | 74.00                      | 5.7%        |
|   | <i>3 years</i>                     | 130.00                 | 138.00                     | 6.2%        |
| Application for dual driver licence   | <i>1 year</i>                      | 105.00                 | 111.00                     | 5.7%        |
|   | <i>3 years</i>                     | 195.00                 | 207.00                     | 6.2%        |
| Interim application for dual driver licence   | <i>(+ £1/unexpired month)</i>      | 30.00                  | 34.00                      | 13.3%       |
| Licence badge deposit (refundable on return of badge)   |                                    | 50.00                  | 50.00                      | 0.0%        |
| Replacement licence badge   |                                    | 20.00                  | 20.00                      | 0.0%        |
| Written local knowledge test (full test) (non-refundable)   |                                    | 40.00                  | 40.00                      | 0.0%        |
| Written local knowledge test (conditions only) (non-refundable)   |                                    | 25.00                  | 25.00                      | 0.0%        |
| Versant English language assessment *   |                                    | 28.80                  | 28.80                      | 0.0%        |
| Disclosure & Barring Service (DBS) enhanced disclosure *  |                                    | 44.00                  | 44.00                      | 0.0%        |
| External identity check (where required for DBS route 2 verification) *   |                                    | 7.20                   | 7.20                       | 0.0%        |
| Driving licence verification check *  |                                    | 6.90                   | 6.90                       | 0.0%        |
| <b>6.2 Taxi and private hire vehicles</b>   |                                    |                        |                            |             |
| Application for HC vehicle licence (includes compliance test fee) (1yr)   |                                    | 240.00                 | 258.00                     | 7.5%        |
| Application for PH vehicle licence (includes compliance test fee) (1yr)   |                                    | 225.00                 | 238.00                     | 5.8%        |
| Application for stretch limo PH vehicle licence (includes specialist compliance test fee) (6 month)                           |                                    | 175.00                 | 185.00                     | 5.7%        |

| Item  |              | Current fee<br>2014-15 | Proposed<br>fee<br>2015-16 | %<br>change |
|---|--------------|------------------------|----------------------------|-------------|
| Licence plate deposit (refundable on return of plates)            |              | 50.00                  | 50.00                      | 0.0%        |
| Replacement rear (external) licence plate                         |              | 20.00                  | 20.00                      | 0.0%        |
| Replacement front (internal) licence plate                        |              | 20.00                  | 20.00                      | 0.0%        |
| Replacement front (internal) licence plate holder                 |              | 2.00                   | 2.50                       | 25.0%       |
| Transfer of ownership of licence/vehicle                          |              | 72.50                  | 64.00                      | -11.7%      |
| Substitution of vehicle on licence (includes compliance test fee) |              | 165.00                 | 173.00                     | 4.8%        |
| Change of vehicle particulars (reg. no., colour, capacity)        |              | 55.00                  | 55.00                      | 0.0%        |
| Vehicle compliance test *   |              | 54.00                  | 54.00                      | 0.0%        |
| Specialist vehicle compliance test * (stretch limos)              |              | 80.00                  | 80.00                      | 0.0%        |
| <b>6.3 Private hire operators</b>                                 |              |                        |                            |             |
| Application for PH Operator licence (2yr)                         | 4+ vehicles  | 350.00                 | 360.00                     | 2.9%        |
| Application for PH Operator licence (3yr)                         | 1-3 vehicles | 350.00                 | 360.00                     | 2.9%        |
| <b>6.4 Taxi and private hire – other fees</b>                     |              |                        |                            |             |
| Duplicate copy of licence following theft/loss/damage             |              | 15.00                  | 15.00                      | 0.0%        |
| <b>7.1 Hypnotism</b>  |              |                        |                            |             |
| Hypnotism authorisation   |              | No fee                 | No fee                     |             |
| <b>9.1 Sex establishments</b>                                     |              |                        |                            |             |
| Application for new sex establishment licence                     |              | 2,775.00               | 2,775.00                   | 0.0%        |
| Application for renewal of sex establishment licence              |              | 2,500.00               | 2,500.00                   | 0.0%        |
| Application for variation of sex establishment licence            |              | 1,800.00               | 1,450.00                   | -19.4%      |
| Application for transfer of sex establishment licence             |              | 600.00                 | 440.00                     | -26.7%      |
| <b>10.1 Skin piercing</b>   |              |                        |                            |             |
| Application for registration of skin piercing, etc, premises      |              | 220.00                 | 200.00                     | -9.1%       |
| Application for registration of skin piercing, etc, operator      |              | 115.00                 | 89.00                      | -22.6%      |

### Key

|  |
|--|
| * Fee is rechargeable on a full cost recovery basis, and will be adjusted automatically in accordance with any variation of the fee charged by the council's supplier. |
| Fee prescribed in legislation  |
| Fee set within prescribed maxima   |

## 6. CHANGES TO PERSONAL ALCOHOL LICENCES

R Hill explained that the report sets out the legislative change around renewals of personal alcohol licences. He said they were just asking for a copy of the personal licence only and not the original.

Councillor Peter asked how they could be sure they were receiving a genuine copy of the licence if they weren't receiving the original. R Hill advised that the Council would have issued the original licence and therefore should have the details on the system.

### Resolved:

The Licensing and Health and Safety Enforcement Committee noted the report and agreed that the renewal of applications need to be accompanied by a copy of the personal licence only.

## **7. PETITION IN RESPECT OF TAXI TESTING STATION POLICY**

R Hill highlighted that there was approximately 18 months remaining under the current contract and therefore not proposing any change at this current time. He said there were not a large amount of garages awaiting work with taxi testing and they've received very few complaints about the current services.

Mr Carrington explained that the reason for the petition was due to inconsistency and a lack of choice of garages for taxi drivers. He said some garages work differently to others which can cause problems and he didn't feel that the licensing department were monitoring the garages enough to ensure they're working correctly.

The Chairman noted that drivers are complaining to the Taxi Association rather than to the Council and she felt this caused a problem as the Council will have no record of any complaints on the matter.

Mr Carrington said licensing should be monitoring the standards of the garage to ensure they're complying with the contract. He felt it was better to have 2 options than 1 but understood that there was a contract still in place.

R Hill confirmed that Mr Carrington's suggested had been put in place and that Enforcement Officers had been carrying out checks at the station.

Councillor Fantham suggested they look around at the local competition in the next 18 months and seek to improve the service. He felt they should be concerned about this issue and it should be taken seriously.

The Chairman said the matter was being taken seriously and was pleased to see the suggestion had been put in place.

Councillor G Sutton echoed Councillor Fantham's comments and felt that there should be 2 stations, not 1.

Councillor Bhinder referred to paragraph 2.1(b) and felt it was not a good reason to have 2 testing stations. However he did feel competition was a good thing and supported raising standards.

Councillor Peter also referred to paragraph 2.1(b) and said the personality of the driver was irrelevant and it should just be about testing the vehicles.

R Hill suggested returning to the committee approximately six months before the end of the contract to discuss the matter further.

### Resolved:

The Licensing and Health and Safety Enforcement Committee noted the petition and agreed to have another report on this matter approximately six months before the renewal of contract for taxi testing.

Councillor Fantham suggested that the Taxi Association were alerted of this meeting and kept informed.

## **8. LETTER FROM BARONESS KRAMER, DEPARTMENT FOR TRANSPORT**

R Hill advised that the letter was for information purposes and that members should note the letter from Baroness Kramer.

Resolved:

The Licensing and Health and Safety Enforcement Committee noted the letter.

The meeting ended at 8.22 pm