

# CABINET

## Licensing of Hackney Carriages and Private Hire Vehicles

1<sup>st</sup> September 2015

### Report of Chief Officer (Governance)

PURPOSE OF REPORT				
To enable Cabinet to consider the level of service that should be provided by the Council in relation to the licensing of hackney carriages and private hire vehicles.				
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>	Referral from Council
Date of notice of forthcoming key decision	N/A			
This report is public				

#### RECOMMENDATIONS

- (1) Cabinet's views are sought as to whether it wishes to explore any options to reduce or increase the level of service provided by the Council with regard to the licensing of hackney carriages and private hire vehicles.

##### 1.0 Introduction

- 1.1 At the Council meeting on the 15<sup>th</sup> April 2015, Councillor Mace asked the Leader a question on notice as follows: "*Legislation provides for the council to recover prescribed licensing costs through the licence fees, namely from those who are regulated by the legislation. Despite an increase in charges for 2015-6 by more than the inflation rate, expected costs of £226,100 still exceed expected revenues for the current year by approx £66,000. This annual deficit has risen substantially in recent years. Minutes of the Licensing Regulatory Committee (LRC) for the March 2015 meeting report that Members asked that options for reducing the deficit be presented to the committee. Council Tax payers may be surprised to learn that the under recovery of costs incurred in the regulation of Hackney Carriages and Private Hire in the District costs them so much when reasonable costs can be recovered (but not exceeded) by fees charged. Options available to the LRC are not the same as the options available to Cabinet as the Cabinet has an executive role that the LRC does not have. Will the Leader of the Council instruct that costed options for reducing this annual deficit be presented to Cabinet?*"

- 1.2 Councillor Blamire's response was as follows: *"As indicated in the question, the setting of taxi licence fees is, by law a matter for the Regulatory Committee and not Cabinet. It is therefore for the Committee to determine, within the framework of the legislation, the level at which the fees are set, and to what extent the costs of providing the service should be recovered through the fees. However, Cabinet is responsible for determining the structure and scale on which the Licensing service is provided, and this of course affects the cost. I will ask for a report to enable Cabinet to consider all the options available. These may include making savings by reducing the level of service provided to the trade and to the public in terms of responding to inquiries and complaints and undertaking enforcement action. However, other options that Cabinet may wish to consider may be to maintain or increase the level of service, and particularly enforcement, to ensure that the Council carries out its role as a responsible regulatory authority. Once Cabinet has set the level of service to be provided, it is of course for the Regulatory Committee to consider whether or not the fees should be set at a level which will recover all the costs that the legislation permits."*
- 1.3 This report is presented to Cabinet to enable it to consider the options available

## **2.0 Proposal Details**

- 2.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that various licensing and registration functions, including hackney carriage and private hire licensing, are not to be the responsibility of a Council's executive (Cabinet). Accordingly, these functions fall within the terms of reference of the Licensing Regulatory Committee, which is a committee of council. The 2000 Regulations further provide that where a charge is made for any licence the issue of which is not the responsibility of the executive, the amount of the charge is also not to be the responsibility of the executive. Accordingly, the hackney carriage and private hire licence fees are set by the Licensing Regulatory Committee.
- 2.2 The Local Government (Miscellaneous Provisions) Act 1982 provides that a council may charge such fee for a hackney carriage or private hire driver's licence as it considers reasonable with a view to recovering the costs of issue and administration. The Act further provides that a council may charge such fees for vehicle and operators' licences as may be sufficient in the aggregate to cover in whole or in part the reasonable cost of carrying out inspections of vehicles for the purpose of determining whether a licence should be granted or renewed, the reasonable cost of providing hackney carriage stands, and the reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles. The legislation provides that any variation of the fee for an operator's licence or a vehicle licence must be publicly advertised, and any objections considered.
- 2.3 The policy of the Council for many years, pre-dating the 2000 Regulations, has been that the cost of the licensing service should, so far as possible and lawful, be self-financing, so that the costs fall on those who are regulated rather than on the council tax payers generally. However, for a number of years the taxi licence fees have been set at such a level that there has been a shortfall between the fee income received and the cost of running the service. The fees were increased by 3% for the financial year 2015/16, but this still left an estimated shortfall of around £67,100. It is accepted that certain elements of the work undertaken on taxi licensing, in particular driver enforcement, will fall outside the scope of what may lawfully be recovered through the licence

fees, and that some shortfall will be inevitable. At the start of this financial year, the non-recoverable costs of taxi licensing were calculated at around £15,700. This meant that there was still a potentially recoverable shortfall of over £50,000.

- 2.4 The greatest cost of the licensing function is inevitably the Licensing staffing and internal recharges, for example from Customer Services, Legal Services and Management Team. The Licensing section comprises a Licensing Manager, plus two Administrative Officers (1.8 FTE), and three Enforcement Officers (2.46 FTE). In addition to hackney carriage and private hire licences and other miscellaneous licences which fall within the remit of the Licensing Regulatory Committee, these staff deal also with licences under the Licensing Act 2003 and Gambling Act 2005, which fall within the remit of the Licensing Act Committee. For budgeting purposes, staff and other costs are apportioned between the different areas of licensing. The LALPAC software currently used by Licensing staff has a recently enhanced facility for recording time against itemised tasks, and it is intended to use the more accurate information gained from this to review the licence fees for 2016/17 and to ensure that time is properly recharged to the relevant type of licence.
- 2.5 The Service is constantly seeking to streamline the administrative processes for taxi licensing applications and renewals, and although appointments are made for new driver applications, renewals of driver and vehicle licences are now dealt with solely on the paperwork and without a face to face interview. This has enabled administrative officers to devote more time to Licensing Act 2003 and Gambling Act 2005 applications. Over the past few months, enforcement officers too have been able to devote more time to inspections of premises licensed under the 2003 and 2005 Acts, and to the enforcement of scrap metal and second hand goods dealers' licences. It should be noted that the licence fees under the Licensing Act 2003 are set by the government and under the Gambling Act 2005 with reference to government guidelines, and these areas have in recent years shown a surplus. However, the reallocation of officer time and more accurate time recording mean that by the time the fees are reviewed for the next financial year, it is likely that the taxi licensing shortfall will have reduced considerably, and that this will be balanced by a reduction in the surplus under the Licensing Act 2003 and Gambling Act 2005.
- 2.6 However, notwithstanding the streamlining of administrative processes, officers believe that it is still important that taxi licence application and renewal documentation is properly checked to ensure that applicants meet the "fit and proper person" test. It is also important that licensing regulations are properly explained to new applicants; failure to do so may increase the requirements for enforcement work at a later stage.
- 2.7 Much of the enforcement work relating to hackney carriages and private hire drivers arises from complaints received from members of the public and from within the trade. The primary purpose of hackney carriage and private hire licensing is the protection of public safety, and this means that the enforcement element is extremely important. This was emphasised recently in the published report on child sexual exploitation in Rotherham. That report looked in detail at the Rotherham licensing service, and found that insufficient steps had been taken to ensure that only fit and proper persons were licensed to hold taxi licences. The report concluded that, as a result, the Rotherham council could not provide assurances that the public, including vulnerable people, were safe. The report was critical that complaints had not been investigated and that licence conditions were not enforced.

- 2.8 As the licensing and regulatory authority, the Council has a responsibility to enforce the licensing legislation and to ensure that the terms and conditions of any licence it issues are complied with. A licence is the Council's "seal of approval", in effect warranting that the holder is a fit and proper person. If proper and ongoing checks are not carried out, this assurance is devalued. Officers would be concerned, therefore, that any reduction in staffing and consequent reduction in service could undermine public safety and the validity of the licensing process.
- 2.9 It is recognised, however, that in the current economic climate, and in order to make savings, the Council must consider the level of service it wishes to provide, both for discretionary and statutory services. Accordingly, if Cabinet wishes the Council to provide a reduced taxi licensing service, and wishes to identify any particular aspects of the service which it feels could be provided to a lower standard, these can be considered by officers and a further report brought back to Cabinet as to the savings that could be made. For example, Cabinet might be willing to accept a longer processing time for applications, less detailed investigation of minor complaints, or less pro-active enforcement on the streets. On the other hand, Cabinet might wish to consider whether it wishes to enhance the level of service, for example to increase the pro-active enforcement work.
- 2.10 It should be born in mind that, by law, the Council is only able to recover through the licence fees the costs as set out in paragraph 2.2 above. There would inevitably be an expectation among licence holders that any reductions in service would be reflected in a reduction in fees. Clearly, if Cabinet wishes to maintain or even improve the current level of service, it is open to the Licensing Regulatory Committee to increase the fees to a level that would provide income to meet all the operating costs that can lawfully be recovered through the fees.

### **3.0 Details of Consultation**

- 3.1 A copy of this report is being provided to the Licensing Regulatory Committee at its meeting on the 3<sup>rd</sup> September, along with a report on the options available to that Committee to reduce the shortfall.

### **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 Cabinet is asked to consider at this stage whether it wishes to consider reductions or enhancements in the levels of service provided for the licensing of hackney carriage and private hire vehicles, and if so, in which aspects, so that these can be further investigated and costed.

### **5.0 Conclusion**

- 5.1 The views of Cabinet are sought.

## **RELATIONSHIP TO POLICY FRAMEWORK**

Protecting the most vulnerable in our society is an underlying principle of the Council's corporate plan. Many taxi passengers are vulnerable persons, and an effective licensing regime is crucial for their protection.

## **CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)**

As above.

**LEGAL IMPLICATIONS**

None directly arising from this report. As set out in the report, the Council may only recover the licensing costs that are prescribed in the legislation.

**FINANCIAL IMPLICATIONS**

As stated in the report, the cost of providing the various hackney carriage and private hire licences is to be reviewed as part of the 2016/17 budget process. Any proposals regarding the level of service arising from this report will be included within that review. The current estimated shortfall on the taxi licensing account for 2015/16 is £67,100.

**OTHER RESOURCE IMPLICATIONS****Human Resources:**

HR advice would be sought if any Cabinet proposals required a reduced staffing structure.

**Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her role as Chief Officer (Governance).

**BACKGROUND PAPERS**

None

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