



<u>Committee and Date</u>
Strategic Licensing Committee
18 March 2015

<u>Item</u>
7
<u>Public</u>

Proposed Amendments to the Licensing & Safety Sub-Committee Procedure Rules in relation to Hackney Carriage and Private Hire Licensing

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1. Summary

- 1.1 This report sets out proposed changes to the Licensing & Safety Sub-Committee Procedure Rules as set out in Part 4 of the Council's Constitution.

2. Recommendation

- 2.1 That the Committee instructs the Head of Public Protection to take whatever steps are necessary to progress the proposed amendments, as set out in **Appendix A** with any necessary modifications, to the Council's Licensing & Safety Sub-Committee Procedure Rules detailed in Part 4 of the Council's Constitution in consultation with the Head of Legal and Democratic Services and the Portfolio Holder for Business Growth, ip&e, Culture and Commissioning (North).

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 The proposed changes to the Licensing & Safety Sub-Committee Procedure Rules are required to take account of the increasing responsibility placed on the Council with respect to the safeguarding of children, young people and vulnerable adults as it relates to hackney carriage and private hire licensing and, in addition, to reflect the current management structure within Public Protection.

- 3.2** It is key that appropriate professionals from the Council's Adult and Children's Services and from West Mercia Police are more directly involved in supporting the Council's decision making process. These professionals provide skills, knowledge and relevant information that significantly enhance the bare facts that are reported on a Disclosure and Barring Service (DBS) check. This leads to more robust decisions and is another step that helps to ensure, as far as is reasonably practicable, that only fit and proper persons are permitted to hold hackney carriage and private hire driver and operator licences.
- 3.3** It is equally important to recognise that other officers of the Council and representatives from other relevant external agencies and organisations may also provide valuable information that will further enhance the outcomes of the licensing process. Consequently, the proposed changes to the Procedure Rules also gives a clear direction that consultation with all relevant parties, in addition to those specifically identified for the purposes of safeguarding, is entirely appropriate.
- 3.4** All decisions are and will continue to be taken by an individual officer [Team Manager (Transactional Management)] of the Council with delegated authority to do so thus ensuring decisions are made lawfully. These decisions will be made in consultation with safeguarding professionals, a legal advisor, police and other relevant agencies/organisations to support the Team Manager (Transactional Management) at a 'Licensing Panel'.
- 3.5** The recommendation supports the protection of the human rights of the public who use hackney carriages and private hire vehicles, particularly children, young people and vulnerable adults. The principles behind the recommendation are aimed at ensuring the Council takes its duty to protect life seriously, prevents inhuman treatment and avoids any adverse impact on normal family life.
- 3.6** With respect to those people who wish to apply for or retain a licence to be a hackney carriage or private hire vehicle driver, the proposed changes to the Procedure Rules incorporates clear guidance that the officer making the decision must act fairly and sets out procedures to ensure that this is the case. Additional safeguards are set out in the revised Hackney Carriage and Private Hire Licensing

Policy 2015 – 2019 ('the Policy') that takes effect from 1 April 2015 to ensure the Council provides a fair evaluation of applications and existing licences and maintains respect for private and family life when making decisions on whether to grant, renew, suspend or revoke a licence. In addition, in the event that an officer does not grant or renew a licence or decides to revoke or suspend an existing licence, the applicant or licence holder has a right of appeal to the Magistrates' Court.

3.7 An Equality Impact Needs Assessment (EINA) has not been carried out in relation to the specific changes proposed in this report; however, equalities and diversity issues have been considered as part of the overall review of the hackney carriage and private hire licensing regime and an Equality and Social Inclusion Impact Assessment (ESIIA) was undertaken in respect of the Policy that will come into force on 1 April 2015.

3.8 An extensive consultation exercise has been undertaken as part of the process to revise the Policy and is detailed in reports that have been previously been presented to the Strategic Licensing Committee between March and December 2014 and to Cabinet on the 11 February 2015. The operation of the 'Licensing Panel', as referred to in paragraph 3.4 above, formed part of this consultation process; subsequent feedback informed changes to the Policy as well as guiding the development of the ESIIA.

3.9 There are no environmental consequences associated with the recommendation in this report.

4. Financial Implications

4.1 There are no additional or significant financial implications associated with the recommendation for the Council. Nevertheless, officer time will be required to implement the amendments to the Procedure Rules, including the preparation of a separate report to full Council to give effect to the necessary amendments.

4.2 The costs associated with undertaking the necessary work going forward will initially be met from existing budgets held by Public Protection, Legal & Democratic

Services, Adult Services and Children's Services. However, in the longer-term, these costs are recoverable through the licensing fee regime and will be built into the annual licensing fee review process during 2015/16 in readiness for 2016/17. Discussions around the level of support that West Mercia Police will provide together with the potential to recover their costs are ongoing. It is anticipated that these issues will be resolved prior to the necessary report being presented to full Council.

5. Background

- 5.1** The Council's Constitution (Part 8 – Delegations to Officers) delegates to the Head of Public Protection and Service Managers with responsibility for licensing functions the authority to issue any unopposed statutory licence and to refuse, suspend or revoke any existing licence. The Head of Public Protection and Service Managers have the authority to make onward delegations to other officers where this is considered necessary.
- 5.2** This delegated authority has been extended by means of a number of amendments to the Licensing & Safety Sub-Committee Procedure Rules to permit what was the Licensing Team Leader, and those officers above this post with line management responsibility, to investigate and take such action as is considered appropriate including refusal of new and renewal applications and suspension and revocation of existing licences in relation to any matter concerning a private hire or hackney carriage driver or vehicle licence. The current applicable Procedure Rules are set out in **Appendix B**.
- 5.3** The extension of the delegated authority was initially agreed as a result of the significant increase in 'out of area' licence applications for both driver and hackney carriage licences that occurred in 2011/12. The delegated authority was further extended following the introduction of the Council's 'Intended Use and Licensing of Hackney Carriage Policy'. The introduction of this delegated authority has led to a reduction in the time taken to deal with applications without creating an adverse impact on the quality of decision making and it has also significantly reduced the burden on the Licensing & Safety Sub-Committee to a manageable level.

- 5.4** The Council's Policy has been significantly revised, with a decision taken by Cabinet on the 11 February 2015 to adopt and implement the revised Policy with effect from 1 April 2015. A fundamental reason for revising the Policy was to place a greater emphasis on safeguarding when licensing hackney carriages and private hire vehicles, drivers and operators. The proposed changes to the Licensing and Safety Sub-Committee Procedure Rules further enhance the steps the Council is taking to protect the public and, in particular, to safeguard children, young people and vulnerable adults.
- 5.5** The principle of utilising the delegated decision making powers was considered by the Enterprise & Growth Scrutiny Committee at a meeting held on 6 November 2014. There was overall support for the majority of hackney carriage and private hire licencing decisions to be undertaken by officers with only those matters, where officers are unable to agree upon a decision, coming before Members for further consideration and final determination. The proposed changes to the Licensing and Safety Sub-Committee Procedure Rules support this principle and further provide for the officer, with delegated authority, to make effective decisions on the majority of hackney carriage and private hire related licences.
- 5.6** The Policy was also considered by the Young People's Scrutiny Committee on the 4 February 2015. A number of recommendations were made to further improve the safeguarding of children and vulnerable persons. The proposed changes to the Procedure Rules also support the Young People's Scrutiny Committee's recommendations.
- 5.7** The practical mechanism that will facilitate an appropriate level of support from West Mercia Police to the Licensing Panel has yet to be agreed; however, this will be resolved prior to the preparation of the necessary report that will be presented to full Council to give effect to the proposed changes either as they are currently drafted or with any further amendments deemed necessary to ensure the mechanism is lawful and can be delivered in practice.

6. Additional Information

6.1 In addition to minor amendments to improve clarity and formatting, the specific changes proposed to the Council's Licensing & Safety Sub-Committee Procedure Rules detailed in Part 4 of the Council's Constitution are:

- a)** In paragraphs 6 and 7, references to 'Licensing Officer' be replaced with 'Team Manager (Transactional Management)'.
- b)** In paragraph 7, the powers delegated to the Team Manager (Transactional Management) be extended to include decisions in respect of private hire operator licences as well as driver and vehicle licences.
- c)** In Annex A (Procedure Guidance Notes for Members), all references to 'Licensing Team Leader' be replaced with 'Team Manager (Transactional Management) or their appointed representative'.
- d)** In Annex B (Matters of Procedure for the Licensing Decision Maker)
 - the reference to 'Licensing Officers' be replaced with 'the Licensing Decision Maker';
 - in addition to consulting with a legal advisor, the Team Manager (Transactional Management) is now specifically required to also consult with the Council's safeguarding lead officers for Adult and Children's Services and an appropriate officer from West Mercia Police prior to making a decision;
 - it is made clear that the Team Manager (Transactional Management) may consult with any other officer of the Council or a representative from any other relevant external agency or organisation as they consider appropriate prior to making a decision;
 - provision is made for immediate suspension decisions to be taken prior to the licence holder being informed but with the proviso that the licence holder will be informed after the decision has been made and will still be given an opportunity to make representations; and
 - the time period of two weeks for licence holders to submit representations is replaced with the words '10 working days'.

7. Conclusions

7.1 The proposed changes to the Council's Licensing & Safety Sub-Committee Procedure Rules detailed in Part 4 of the Council's Constitution will further strengthen the safeguarding of children, young people and vulnerable adults by increasing the robustness of the hackney carriage and private hire licensing regime.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- Shropshire Council Hackney Carriage and Private Hire Licensing Policy 2015 – 2019
- Report of the Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013 by Alexi Jay OBE, published August 2014
- Report of Inspection of Rotherham Metropolitan Borough Council by Louise Casey CB, published in February 2015

Cabinet Member (Portfolio Holder)

Cllr Steve Charmley

Local Member

Not applicable as issue applicable to whole administrative area of Shropshire Council

Appendices

Appendix A – Proposed Licensing & Safety Sub-Committee Procedure Rules in Part 4 of the Council's Constitution

Appendix B – Current Licensing & Safety Sub-Committee Procedure Rules in Part 4 of the Council's Constitution