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To all Members of the

LICENSING COMMITTEE

AGENDA

Notice is given that a Meeting of the above Committee is to be held as follows:

VENUE Council Chamber - Civic Office Floor 2
DATE: Tuesday, 28th June, 2016
TIME: 10.00 am

Items for Discussion:

	PageNo.
1. Apologies for absence	
2. To consider the extent, if any, to which the public and press are to be excluded from the meeting.	
3. Declarations of Interest, if any.	
4. Minutes of the Licensing Committee Meeting held on 17th March, 2016	1 - 2
A. Reports where the public and press may not be excluded	
<u>For noting</u>	
5. Terms of Reference, Procedures and Delegations	3 - 24
6. Licensing Act 2003, Gambling Act 2005 and General Licensing Update	25 - 30

Jo Miller
Chief Executive

Issued on: Monday, 20 June 2016

Governance Officer
for this meeting:

Andrea Hedges
(01302) 736716

For Decision

- | | | |
|----|--|---------|
| 7. | Hackney Carriage and Private Hire Licensing Policy - Appendix 10
Private Hire Operator - Conditions of Licence | 31 - 40 |
| 8. | Hackney Carriage and Private Hire Licensing Policy, Hackney
carriage driver, private hire driver and private hire operator licensing -
Safeguarding Awareness Training | 41 - 48 |

Members of the Licensing Committee

Chair – Councillor Ken Keegan
Vice-Chair – Councillor Linda Curran

Councillors Iris Beech, Elsie Butler, Bev Chapman, Steve Cox,
Neil Gethin, James Hart, Rachel Hodson, Charlie Hogarth, Majid Khan,
Sue McGuinness, John McHale and Clive Stone

Public Document Pack Agenda Item 4

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING COMMITTEE

THURSDAY, 17TH MARCH, 2016

A MEETING of the LICENSING COMMITTEE was held at the COUNCIL CHAMBER - CIVIC OFFICE on THURSDAY, 17TH MARCH, 2016, at 10.00 am.

PRESENT:

Chair - Councillor Ken Keegan
Vice-Chair - Councillor Linda Curran

Councillors Iris Beech, Rachael Blake, Neil Gethin, James Hart, Charlie Hogarth, John McHale, David Nevett and Clive Stone.

APOLOGIES:

Apologies for absence were received from Councillors Elsie Butler, Bev Chapman and Steve Cox.

15 Declarations of Interest, if any.

There were no declarations made at the meeting.

16 Minutes of the Licensing Committee Meeting held on 15th October, 2015.

RESOLVED that the minutes of the meeting of the Licensing Committee held on 15th October, 2015, be approved as a correct record and signed by the Chair.

17 Hackney Carriage and Private Hire Licensing Policy - Minor Amendments to Policy and Vehicle Conditions.

Members considered a report that detailed changes to be made to the Hackney Carriage and Private Hire Licensing Policy. The Business Safety and Licensing Manager outlined the key points to note within the document, which reflected recent legislative changes concerning the duration of driver and private hire operator licences.

It was reported that as a result of changes brought about by the Deregulation Act 2015, all Driver licences issued, would now remain in force for a period of 3 years, aside from in cases where special circumstances applied. Licences would still be issued on a case by case provision, but there was limited discretion to reduce a licence for less than a 3 year period. This would largely apply to applicants who were not eligible to remain in the country for the 3 year period as a result of immigration leave, and therefore these licences would only be issued for their permitted duration in the country. Likewise, with Operator Licences, these would be issued for a 5 year period, unless similar circumstances applied. Members noted that all checks remained the same prior to the issue of licences and action could still be taken where warranted against both drivers and operators.

A second change to the Policy that was outlined to Members with regard to insurance write offs in respect of Hackney carriage and private hire vehicle specifications. It was reported that any vehicle classified as a category A or B vehicle write off, would not be issued a licence at

all, and any vehicle categorised as C or D write off would now only be issued a licence if an independent vehicle inspection had been undertaken to ensure that the vehicle was roadworthy. In the past, cars were subject to a Vehicle Inspection Check (VIC) but the DVLA and VOSA ceased to operate this scheme in October 2015. Category C and D write offs fall into the repairable category, but were often deemed by insurance companies uneconomic to do so. However, if an owner was prepared to take on the cost themselves, and if any repair work was carried out to a safe and satisfactory standard and the Roadworthy Vehicle Inspection was carried out by a competent and independent engineer, they would be considered as suitable for licensing.

Further to the presentation of the report, Members of the Committee were afforded the opportunity to comment and raise any questions they may have. A number of queries with regard to the Roadworthy Vehicle Inspections, but officers endeavoured to provide answers to all the queries raised, and assured Members that engineers based at the North Bridge Depot had been consulted with regard to these changes to ensure that necessary checks were in place.

RESOLVED that the Licensing Committee approve the amendments to the Hackney Carriage and Private Hire Licensing Policy, as detailed in paragraphs 4.1 to 4.3 of the report.

TO THE CHAIR AND MEMBERS OF THE LICENSING COMMITTEE

TERMS OF REFERENCE, PROCEDURES AND DELEGATIONS

EXECUTIVE SUMMARY

1. The purpose of this report is for the Licensing Committee to note the Terms of Reference for the discharge of licensing functions, to note the procedure for hearings, to agree the delegation of functions and to agree the appointment of Members to the Licensing Sub-Committee Divisions.

RECOMMENDATIONS

2.
 - a) It is recommended that Members note:
 - (i) The Terms of Reference for the Licensing Committee as detailed in Appendix A to this report.
 - (ii) The Terms of Reference for the Licensing Sub-Committees as detailed in Appendix A.
 - b) It is recommended that Members agree:
 - (i) The procedures set out in Appendices B1 and B2 continue to be the procedures for Licensing Committee and Sub-Committee hearings held under the Licensing Act 2003 and the Gambling Act 2005 respectively.
 - (ii) The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is decided.
 - (iii) The delegation of functions set out in Appendix C1 and C2.
 - (iv) The appointment of Members to the Licensing Sub-Committee as set out in Appendix D.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. Doncaster Council as the licensing authority is required to establish a licensing committee and sub-committee(s) in order to discharge its

duties under the Licensing Act 2003 and the Gambling Act 2005. The establishment of defined terms of reference, clear procedures and delegations allows the Council to make licensing decisions.

BACKGROUND

4. Terms of Reference of the Licensing Committee are unchanged from those that were noted by the Licensing Committee on the 25th June 2015. A copy of the Terms of Reference is set out in the Appendix A to this report for the Committee to note.
5. The Licensing Act 2003 and the Gambling Act 2005 enables the Licensing Committee to determine its own procedure and those of its Sub-Committees subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 respectively. The procedures are set out in Appendix B1 and B2 of this report.
6. The Licensing Act 2003 provides that the functions of the Council as the Licensing Authority shall be carried out by its Licensing Committee, with the exception of the Statement of Licensing Policy. The Licensing Committee may delegate those functions to Sub-Committees or, where permitted, to officers. Details of these delegations are found at Appendix C1.
7. The Gambling Act 2005 provides that all decisions relating to premises licences are, with the exception of those listed below, delegated to the Licensing Committee that has been established under the Licensing Act 2003. The Licensing Committee may delegate those functions to the Sub-Committee or, where permitted, to officers. Details of these delegations are found at Appendix C2
Exceptions:
 - A resolution not to issue casino licences (Full Council decision only)
 - Functions in relation to the Statement of Policy (Full Council decision)
 - Setting of fees (Full Council)
8. The appointment of the Licensing Sub-Committee and Member make-up process is unchanged with the minimum number of Members required to be quorate being 3.
9. For hearings held to consider matters relating to the Licensing Act 2003 or the Gambling Act 2005, where more than 3 Members attend those additional Members would be able to choose from the following options:
 - Stay and take part in the meeting and determine the outcome with the rest of the Sub-Committee Members;
 - Sit in the public area as an observer; or

- Leave the meeting if they so wished.
10. In the case of an appeal against a Sub-Committee decision there is no reason why mediation or other discussions should not be held between the Licensing Authority and the appellant, once an appeal has been lodged, to either settle the matter entirely or to resolve those issues that can be resolved or indeed to identify issues in dispute. The options as to how these may be dealt with are:
- 1) **Refer back to the Sub-Committee**
This is only possible where there is ample time between the offer to settle and the appeal hearing. The views of interested parties and responsible authorities will also need to be canvassed.
 - 2) **Give the Licensing Officer discretion to settle**
The Licensing Officer must understand the scope of any discretion. It may be that the discretion is only within guidelines/limits from the Licensing Committee or perhaps a decision made by the Licensing Officer in conjunction with the Chair of the Sub-Committee.

OPTIONS CONSIDERED

11. No other option was considered.

REASONS FOR RECOMMENDED OPTION

12. The Committee must note the Terms of Reference, may adopt its own Procedures, may establish one or more sub-committees and may determine the delegation of functions under the Licensing Act 2003 and the Gambling Act 2005.
13. The principles behind the delegation of functions for the Licensing Act 2003 and the Gambling Act 2005 are published in Doncaster Council’s respective Statements of Licensing Policy. It is the policy of Doncaster Council that functions, so far as possible, should be delegated in the interests of speed, efficiency and cost effectiveness.

IMPACT ON THE COUNCIL’S KEY OUTCOMES

14.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> 	<p>Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible. This ensures that licensing decisions can be made in a timely manner.</p>

	<ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	None
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	None
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	None
	<p>Council services are modern and value for money.</p>	Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible.
	<p>Working with our partners we will provide strong leadership and governance.</p>	None

RISKS AND ASSUMPTIONS

15. It is a requirement of the Licensing Authority, under the Licensing Act 2003 and the Gambling Act 2005, to adopt Terms of Reference, the procedure for hearings and approve the delegation of functions.

LEGAL IMPLICATIONS

16. Sections 101 and 102 of the Local Government Act 1972 empower the Council to arrange for the discharge of any of its functions by a Committee or Sub-Committee.

Sections 101 and 102 of the Local Government Act 1972 do not apply to the Licensing Committee or Licensing Sub-Committees. The

Council is obliged by law to appoint a Licensing Committee under the Licensing Act 2003 and Gambling Act 2005.

Care must be taken to ensure the procedure agreed and delegations comply with the relevant statutes.

It is important to note that if a matter is listed for determination by a Sub-Committee, but it is not heard within the requisite timescales, statute determines the outcome and, therefore, the procedures should ensure we meet the relevant timescales and statutory requirements.

FINANCIAL IMPLICATIONS

17. There are no specific financial implications associated with this report.

EQUALITY IMPLICATIONS

18. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

19. Consultation has taken place between Democratic Services, Legal Services and the Licensing Officer.

BACKGROUND PAPERS

20. Report to Annual Council, Terms of Reference Report.

Gambling Act 2005

Licensing Act 2003

Licensing Act 2003 (Hearings) Regulations 2005

Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007

Statement of Licensing Policy 2016

Statement of Gambling Policy 2016

REPORT AUTHOR & CONTRIBUTORS

Paul Williams, Business Safety & Licensing Manager

Tel: (01302) 737837

E: mail: pj.williams@doncaster.gov.uk

Helen Wilson, Senior Legal Officer

Telephone: 01302 734688

Email: Helen.wilson@doncaster.gov.uk

Dave Rosser, Finance Manager

Telephone: 01302 736661

Email: dave.rosser@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

LICENSING COMMITTEE

This Committee is a Committee of the Council constituted:

- (1) In relation to its functions under the Licensing Act 2003, under Section 6 of that Act.
- (2) In relation to its functions under the Gambling Act 2005.
- (3) In relation to its other functions, under Sections 101 and 102 of the Local Government Act 1972.

Terms of Reference

FOR RECOMMENDATION TO COUNCIL:-

1. In respect of the relevant prescribed period to consider the adoption of the Statement of Licensing Policy.
2. During the relevant prescribed period to keep the Statement of Licensing Policy under review, and to recommend any revisions to it.

FOR RECOMMENDATION TO THE EXECUTIVE:-

1. In respect of the relevant prescribed period to advise on the preparation, content and implementation of the Statement of Gambling Policy.
2. During the relevant prescribed period to keep the Statement of Gambling Policy under review, and to recommend any revisions to it.

DELEGATED MATTERS:-

1. To discharge the functions of the Council which are licensing functions within the meaning of the Licensing Act 2003.
2. To discharge the functions of the Local Authority as set out in the Gambling Act 2005.
3. The appointment of Licensing Sub-Committees under Section 10 of the Licensing Act 2003.
4. To determine Policies that are relevant to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions unless the policy must be determined by Full Council.
5. To exercise the Council's functions under Part 3 of the Constitution

which relate to those licensing and registration functions except where the function has been delegated to Officers of the Council.

LICENSING SUB-COMMITTEES

These are Sub-Committees of the Licensing Committee appointed by that Committee under Section 10 of the Licensing Act 2003 and constituted:

- (1) In relation to their functions under the Licensing Act 2003, under Section 6 of that Act.
- (2) In relation to their functions under the Gambling Act 2005.
- (3) In relation to their other functions, under Sections 101 and 102 of the Local Government Act 1972.

Terms of Reference

1. To determine applications under the Licensing Act 2003, where relevant representations are received.
2. To determine applications under the Gambling Act 2005, where relevant representations are received.
3. To determine applications in relation to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions, where relevant representations are received.

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING ACT 2003

LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

1. Meaning of Expressions used in this Document

- | | |
|--|---|
| <i>“the Act”</i> | - Licensing Act 2003 |
| <i>“the Regulations” or any particular reference to a “Regulation”</i> | - The Licensing Act 2003 (Hearings) Regulations 2005 |
| <i>“the Authority”</i> | - Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee |
| <i>“the Committee”</i> | - the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it |
| <i>“the Chair”</i> | - the member of the Committee appointed to act as Chairperson of the Committee |
| <i>“the Applicant”</i> | - the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review |
| <i>“responsible authorities”</i> | - the public or other bodies described in the Act as “responsible authorities” and who have made representations |

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the Authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority"
(as defined in the Act)

- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non contentious and is for the purpose of clarification only.

5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in private. Deliberations will take place in private unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate in private. The Committee shall deliberate only in the company of its legal adviser. The function of the legal adviser

shall be to advise the Committee on points of law and procedure only.

- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing or otherwise where the Committee is unable to announce its determination.
- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including, in either case, any appeal or judicial review).

DONCASTER METROPOLITAN BOROUGH COUNCIL
HEARING PROCEDURE

Gambling Act 2005

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007

1. Meaning of Expressions used in this Document

<i>“the Act”</i>	- Gambling Act 2005
<i>“the Regulations” or any particular reference to a “Regulation”</i>	- The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007
<i>“the Authority”</i>	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>“the Committee”</i>	- the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it
<i>“the Chair”</i>	- the member of the Committee appointed to act as Chairperson of the Committee
<i>“the Applicant”</i>	- the party making the application e.g. the licence holder or prospective holder, or the party seeking a review
<i>“responsible authorities”</i>	- the public or other bodies described in the Act as “responsible authorities” and who have made representations

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.

In conducting a hearing the relevant committee must ensure that each party is given the opportunity to—

- i. address the relevant committee on any matter that is relevant to the application or review, or any representations made on the application or review;
- ii. call witnesses to give evidence on any matter that is relevant to the application or review, or any representations made on the application or review;
- iii. provide further information on, or explanation of, any matter on which the relevant committee has indicated that it will want further clarification.

- (b) The hearing shall take place in public, unless the committee direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to—
- (a) any unfairness to a party that is likely to result from a hearing in public; and
 - (b) the need to protect as far as possible, the commercial or other legitimate interests of a party. A party and any person assisting or representing a party may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority may adjourn the hearing to a specified date if it considers it in the public interest to do so, but it may otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.

- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or

- (ii) the question that one party wishes to put to the other is non-contentious and is for the purpose of clarification only.

5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in private. Deliberations will take place in private unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate in private. The Committee shall deliberate only in the company of its legal adviser. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing, or otherwise where the Committee is unable to announce its determination, notification will be given to all parties within five days.
- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including, in either case, any appeal or judicial review).

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions which come to light after grant.	If a police objection	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases
Suspension of premises licences and club premises certificates for non-payment of annual fees		All cases
Mediation or other discussions between the Licensing Authority and the appellant once an appeal has been lodged against a sub-committee decision to either settle the matter entirely or to resolve those issues that can be resolved or indeed to identify issues in dispute.		In all cases in consultation with the Chair of the Licensing Committee

Matters to be dealt with	Sub-Committee	Officers
Application for premises licences	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence	Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence	All cases	
Application for club gaming /club machine permits	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits	All cases	
Applications for other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Consideration of temporary use notice		All cases
Decision to give a counter notice to a temporary use notice	All cases	

LICENSING COMMITTEE

Chair: Cllr 1, Vice-Chair: Cllr 2

Members: Cllr 3, Cllr 4, Cllr 5, Cllr 6, Cllr 7, Cllr 8, Cllr 9, Cllr 10, Cllr 11, Cllr 12, Cllr 13, Cllr 14

LICENSING SUB-COMMITTEES

(Appointed under the Licensing Act 2003, section 10)

In the event of there being a Hearing required under the Licensing Act 2003, the Gambling Act 2007 or other relevant statutory provision then the Chair of the Licensing Committee shall be asked to Chair the Sub-Committee and all other Members shall be asked if they can attend. 3 Members shall be enough to be quorate but 4 Members shall be asked to attend to ensure the Hearing can go ahead in the event of Member illness or other incapacity.

Please note:

1. There is no need for the Sub-Committee to be balanced politically or for Members to be barred from taking part in the Hearing when the event or premises etc. is in their Ward,
2. If the Chair is unavailable the Vice Chair will be asked to Chair the Sub-Committee. If neither is available a chair shall be appointed at the Hearing.

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TO THE CHAIR AND MEMBERS OF THE LICENSING COMMITTEE

Licensing Act 2003, Gambling Act 2005 and General Licensing Update

EXECUTIVE SUMMARY

1. The purpose of this report is to update Members on issues relating to the Licensing Act 2003, the Gambling Act 2005 and any significant licensing enforcement actions.

RECOMMENDATIONS

2. It is recommended that Members note the following:
 - 2.1.1 For the period 1st April 2015 to 31st March 2016 the following committees were convened
 - Licensing Committee – 3 occasions
 - Licensing Sub-Committee - 9 occasions

A total of 9 applications / notices were determined by the Licensing Sub-Committee, all of which were applications made under the Licensing Act 2003.

- 2.1.2 Statistical details of all other licence applications (Licensing Act 2003 and Gambling Act 2005) determined by the Authority and a summary of significant licensing enforcement actions, for the period 1st April 2015 to 31st March 2016, are attached as Appendix A1 and A2.
- 2.1.3 The Statement of Licensing Policy (Licensing Act 2003) underwent its quinquennial review in 2015 on schedule, with the revised Policy taking effect from 7th January 2016.
- 2.1.4 The Statement of Licensing Policy (Gambling Act 2005) underwent its triennial review in 2015 on schedule with the revised Policy taking effect from the 31st January 2016.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. By noting the recommendations of this report, the Licensing Committee are kept aware of the latest developments and forthcoming issues thereby ensuring they continue to be best placed to make future licensing decisions.

BACKGROUND

4. The Licensing Committee have requested that the Committee be furnished with details of the licensing decisions (Licensing Act 2003 and Gambling Act 2005), that are delegated outside the remit of the Committee and Sub—Committee, at least annually at the inaugural meeting. Statistical details of these decisions along with a summary of the significant enforcement actions taken by the Business Safety & Licensing service are attached at Appendix A1 and A2. The figures are based on licence applications and enforcement actions that were received and completed respectively during the period 1st April 2015 to 31st March 2016.
5. The Licensing Act 2003 requires that a Licensing Authority adopt a Statement of Policy and that the Policy must be reviewed at least every 5 years. The Policy was reviewed in 2015 and, after consulting widely; the revised Policy was adopted by Council in November 2015. The Policy must be reviewed again no later than January 2021.
6. Similarly, the Gambling Act 2005 requires that a Licensing Authority adopt a Statement of Policy and that the Policy must be reviewed at least every 3 years. The Policy was reviewed in 2015 and, after consulting widely; the revised Policy was adopted by Council in November 2015. The Policy must be reviewed again no later than January 2021.

OPTIONS CONSIDERED

11. It is recommended that the Committee note the recommendations in section 2 (2.1.1 to 2.1.4)

REASONS FOR RECOMMENDED OPTION

14. N/A

IMPACT ON THE COUNCIL'S KEY PRIORITIES

15. This effective operation of the Licensing Authority is a key part of the Council's statutory responsibility.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none">• <i>Mayoral Priority: Creating Jobs and Housing</i>• <i>Mayoral Priority: Be a strong voice for our veterans</i>• <i>Mayoral Priority: Protecting Doncaster's vital services</i>	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>

	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>None</p>
	<p>Council services are modern and value for money.</p>	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>None</p>

RISKS AND ASSUMPTIONS

16. None

LEGAL IMPLICATIONS

17. There are no specific legal implications associated with this report. All necessary steps are taken to ensure the Licensing Committee and sub Committee exercise their functions in accordance with that relevant Legislation.

FINANCIAL IMPLICATIONS

18. There are no specific financial implications associated with this report.

EQUALITY IMPLICATIONS

19. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

20. N/A

BACKGROUND PAPERS

21. N/A

REPORT AUTHOR & CONTRIBUTORS

Paul Williams, Business Safety & Licensing Manager
Tel: (01302) 737837
E: mail: pj.williams@doncaster.gov.uk

Helen Wilson, Senior Legal Officer
Telephone: 01302 734688
Email: Helen.wilson@doncaster.gov.uk

Richard Taylor, Finance Manager
Telephone: 01302 737984
Email: richard.taylor@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

Part 1

Statistical Summary of licence applications (Licensing Act 2003) and notices received by the Authority for the period 1st April 2015 to 31st March 2016.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Personal Licence (New)	199	0	197 granted
Premises Licence (New)	52	9	45 granted
Premises Licence (Transfer)	100	0	
Premises Licence (Review)	1	1	Premises licence revoked
Premises Licence (Variation)	29	3	28 granted 1 rejected for failure to meet application requirements
Premises Licence (Minor Variations)	19	N/A	18 granted
Premises Licence (Change of DPS)	239	0	239 granted
Club Certificate (New)	1	0	1 granted
Standard Temporary Event Notice (TEN)	216	2	208 issued, 7 withdrawn, 1 rejected.
Late TEN	94	N/A	91 issued, 3 rejected.
Total Number of Applications	950	15	<2% of all applications are determined by the Licensing Sub-Committee.

Part 2

Statistical Summary of premises licence applications (Gambling Act 2005) received by the Authority for the period 1st April 2015 to 31st March 2016.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Premises Licence - Betting Non Track (New)	1	0	1 granted
Club Machine Permit	1	N/A	1 granted
Small Society Lotteries (New)	23	N/A	
Adult Gaming Centre (New)	1	0	1 granted
Unlicensed FEC Gaming Machine Permit (New)	5	N/A	5 granted

Part 3

Statistical summary of the licensing enforcement actions taken/commenced by the Business Safety & Licensing during the period 1st April 2015 to 31st March 2016.

Enforcement Action Taken	Number of Actions
Licensed taxi/private hire vehicle suspended from service	250
Licensed taxi/private hire driver suspended	170
Taxi/Private hire driver licence revoked	16
Premises Licence suspended (Licensing Act 2003)	104
Private hire driver prosecuted	1
Licensed taxi/private hire driver prosecuted	1

TO THE CHAIR AND MEMBERS OF THE LICENSING COMMITTEE

Hackney Carriage and Private Hire Licensing Policy – Appendix 10 Private Hire Operator – Conditions of Licence

EXECUTIVE SUMMARY

1. The Doncaster Council Hackney Carriage and Private Hire Licensing Policy (HC & PH Licensing Policy) includes details of standards and conditions attached to the grant of a private hire operator's licence.
2. It has been established that once a vehicle has been licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is currently located, and can therefore be used for pre-booked (private hire) purposes in any district in England and Wales.
3. This situation creates a number of potential difficulties for us as a Licensing Authority and for other enforcement agencies, members of the public and the trade.
4. It has the potential to become a significant issue here in Doncaster because of an influx of hackney carriages into the town that are licensed by other Local Authorities.
5. In order to secure that effective safeguards are in place to mitigate against any public safety impact of this, additional conditions are being proposed.

RECOMMENDATIONS

6. That Committee authorises the Assistant Director - Environment, to go out to consultation with private hire operators, private hire vehicle licence holders and hackney carriage vehicle licence holders on the basis of the proposals set out in Appendix 1.
7. That the Business Safety & Licensing Manager be tasked to report back to the Committee with the outcome of that consultation, and make final recommendations to the Committee.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

8. By implementing the recommendation of this report, the Doncaster Council Hackney Carriage and Private Hire Licensing will remain up to date and fit for purpose. The safety of the travelling public of Doncaster will not be compromised by the recommendations of this report.

BACKGROUND

9. In 2010, the High Court handed down a judgment in the case of Stockton-On-Tees Borough Council v Fidler, Hussain & Zamanian. This identified that once a vehicle has been licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is currently located, and can therefore be used for pre-booked (private hire) purposes in any district in England and Wales.
10. The judgment makes it clear that it is not an offence for a licensed private hire operator to take bookings, and then dispatch a hackney carriage licensed by a district (or Transport for London - TfL) which is different from that which licences the operator, to undertake the booking.
11. It also confirms that a hackney carriage vehicle can be used for pre-booked work outside the district in which the vehicle has been licensed, even if the Licensing Authority is some considerable distance from the district in which the vehicle is undertaking the pre-booked work.
12. The situation creates a number of potential difficulties for us as a Licensing Authority and for other enforcement agencies, members of the public and the trade. These include:
 - prejudice to public safety
 - inconsistent standards
 - increase in illegal 'plying for hire'
 - the inability to enforce or undertake spot checks on these vehicles (although the Police or VOSA have jurisdiction of any licensed vehicle, regardless of where they are licensed)
 - confusion for the customer and possible reduced disability access
 - conflict amongst the two sides of the licensed trade
 - loss of income to the local authority
13. In order to control the situation as far as is possible, it is important for all those affected by the ruling to understand the limits of the Stockton case in relation to what is allowed, and more importantly, what is not. This has the potential to become a significant issue here in Doncaster because of an influx of hackney carriages e.g. vehicles licensed by Gedling Borough Council, Rossendale Council and West Lindsey Council in to the town.

14. Since the Stockton ruling, the licensing team have received a significant number of enquiries about the situation from elected members, members of both the private hire and hackney carriage trade and from colleagues in other licensing authorities. Until recently a means of addressing this situation has not been identified.
15. For the Council, there are two principal concerns:
 - 1) Hackney carriage vehicles and drivers currently licensed elsewhere being used by private hire operators licensed in Doncaster to undertake private hire work.
 - 2) Individuals who previously have not been considered 'fit and proper' to hold a licence by Doncaster Council, e.g. due to inappropriate behaviour, can potentially become licensed as a hackney carriage driver in another local authority area and then undertake work here in Doncaster.
16. For drivers, there could be some perceived benefit in being licensed elsewhere, as the current system we have in place is arguably more rigorous than perhaps those at some other local authorities. For example, all drivers licensed by Doncaster Council are first required to satisfactorily complete a topographical knowledge test of the Doncaster borough. Drivers licensed elsewhere will not have a proven knowledge of the Doncaster borough with the potential for the passenger experience to be less efficient than might reasonably be expected.
17. Of particular concern is point 2 of paragraph 15. For example, where a Doncaster driver's licence is either revoked or refused by Doncaster Council due to inappropriate behaviour, it is conceivable that, where this behaviour falls short of a criminal conviction, the driver could become licensed elsewhere and undertake work here in Doncaster.
18. In relation to the concerns set out in paragraph 15, the High Court judgement defines the parameters within which this activity may be carried out. In reality, as a Licensing Authority, there is nothing Doncaster Council can do to prevent such trade, but it is possible to introduce additional conditions to protect public safety. Officers already have on record a small number of complaints from fare paying passengers and other stakeholders about the adequacy of the service received by out of Doncaster hackney carriage vehicles despatched to them by local private hire firms.
19. In order to secure that effective safeguards are in place to mitigate against any public safety impact of the application of the cross border rules within Doncaster, officers have produced some additional conditions which it is proposed should be adopted and inserted into the existing private hire operator licence conditions, subject to prior consultation with the affected trades. They appear in Appendix 1. The intention is that, following that consultation, a further report will be

presented to committee with appropriate resolutions, having taken into account the outcome of the consultation.

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

20. Having a Policy that is clear and up to date in terms of the law and best practice is the keystone to an effective taxi licensing regime. For these reasons the recommendation in paragraph 6 and 7 are considered to be the most appropriate options.
21. The Council has an over-arching public safety jurisdiction to safeguard the interests of passengers and the public. The implications of the ruling referred to in paragraph 9 identify a number of licensing loopholes which, if not addressed satisfactorily, could impact on public safety.
22. It is reasonable for the public of Doncaster, when booking a private hire vehicle from a Doncaster licensed private hire operator, to expect that Doncaster Council have determined that the vehicle is suitable and that the driver is a 'fit and proper' person. The proposed conditions will afford customers the opportunity to make an informed decision prior to making their booking.
23. To do nothing is not considered a viable option. There remain legitimate public interest concerns that need to be addressed in order to maintain robust regulatory control within Doncaster for the benefit of the fare paying public and licence holders.

IMPACT ON THE COUNCIL'S KEY PRIORITIES

24.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • Mayoral Priority: Creating Jobs and Housing • Mayoral Priority: Be a strong voice for our veterans • Mayoral Priority: Protecting Doncaster's vital services 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • Mayoral Priority: Safeguarding our Communities • Mayoral Priority: Bringing down the cost of living 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>

	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • Mayoral Priority: Creating Jobs and Housing • Mayoral Priority: Safeguarding our Communities • Mayoral Priority: Bringing down the cost of living 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • Mayoral Priority: Protecting Doncaster's vital services 	<p>None</p>
	<p>Council services are modern and value for money.</p>	<p>Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible.</p>
	<p>Working with our partners we will provide strong leadership and governance</p>	<p>None</p>

RISKS AND ASSUMPTIONS

25. It is accepted good practice that a Licensing Authority adopts a statement of licensing policy in respect of taxi licensing. By not having a Policy decisions of the Licensing Authority are more open to challenge.

LEGAL IMPLICATIONS

26. Section 55 of the Act states that, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence: Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.
27. A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary. Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

FINANCIAL IMPLICATIONS

28. The costs associated with the applications and their determinations are met from fees paid to the Council by applicants for Taxi Licences under the relevant legislation. Ultimately drivers taking up licenses elsewhere could result in a reduction in income achievable and would bring about

a cost pressure within the Licensing service.

29. Since the Stockton 2010 High Court ruling, income levels have remained constant within the Taxi Licensing budgets.

HUMAN RESOURCES IMPLICATIONS

30. Not applicable

TECHNOLOGY IMPLICATIONS

31. Not applicable

EQUALITY IMPLICATIONS

32. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

33. It is proposed to undertake a 4 week consultation with private hire operators, private hire vehicle licence holders and hackney carriage vehicle licence holders on the basis of the proposals set out in Appendix 1

BACKGROUND PAPERS

34. Doncaster Council's Hackney Carriage and Private Hire Licensing Policy.

REPORT AUTHOR & CONTRIBUTORS

Paul Williams, Business Safety & Licensing Manager

Tel: (01302) 737837

E: mail: pj.williams@doncaster.gov.uk

Marie-Clare Churchman, Senior Legal Officer

Telephone: 01302 736722

Email: marie-clare.churchman@doncaster.gov.uk

Tracy Edlin, Senior Finance Officer

Telephone: 01302 737418

Email: tracy.edlin@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

Appendix A

It is proposed that the following condition be added as an additional condition to Doncaster Council's existing Private Hire Operator Licence Conditions.

CONDITION: 'OUT OF TOWN' HACKNEY CARRIAGES ACTING AS PRIVATE HIRE VEHICLES IN THE DONCASTER COUNCIL LICENSING DISTRICT.

i. SCHEDULE OF DRIVERS

- a) The Private Hire Operator shall notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage driver employed or used for Private Hire bookings via the Operator Driver Schedule; this will include Hackney Carriage drivers licensed by this or any other Licensing Authority.
- b) Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.
- c) The Private Hire Operator shall retain a copy of the Hackney Carriage driver licence granted by this or any other Licensing Authority along with a copy of the driver's DVLA licence, and any other driver of that vehicle, and forward a copy of those documents to the Doncaster Council Licensing Office forthwith, and in any event within 72 hours of registering that driver.

ii. SCHEDULE OF VEHICLES

- a) The Private Hire Operator shall notify the Licensing Authority forthwith and in any event within 72 hours of each and every Hackney Carriage vehicle employed or used by the operator, this includes those Hackney Carriage vehicles licensed by this or any other Licensing Authority.
- b) Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage vehicle, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.
- c) The Private Hire operator shall retain a copy of the Hackney Carriage vehicle licence granted by another Licensing Authority along with a copy of the MOT certificate, certificate and policy of insurance and vehicle registration document and forward a copy of those documents to the Doncaster Council Licensing Office within 72 hours.

iii. ADVERTISING ON VEHICLES

- a) Where a Hackney Carriage vehicle is licensed by another Licensing Authority, such a Hackney Carriage driver or Hackney Carriage vehicle is expressly prohibited from using any literature, any documentation,

any advertising or displaying any signage associated to the Private Hire Operator or Doncaster Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

iv. TELEPHONE BOOKINGS

- a) The receipt of advance bookings by the licensed Operator for Hackney Carriage vehicles licensed by another Licensing Authority or which are subsequently allocated to a Hackney Carriage Vehicle, licensed by another Licensing Authority, must be maintained in a completely separate register of bookings and in the same format as condition 1. If a computerised booking system is in place those booking records must be kept in a completely separate and distinct area of the systems hard drive to enable easy inspection by the Council.
- b) A separate telephone line and telephone number must be used and installed by the Private Hire Operator and used for Hackney Carriage vehicles licensed by another Licensing Authority which are undertaking Private Hire bookings within that operating base.

There must be a pre-recorded intercept message on the unique booking telephone line which clearly states to prospective customers the following:

“The driver and vehicle you are about to book are not licensed by Doncaster Council and Doncaster Council is not empowered to take licensing action against them in the event of a complaint. In the event of a complaint customers will have to deal with that other Authority where they may be licensed.”

- c) The caller should then be reminded of the Private Hire Operator main telephone number and given the option to be redirected to “a Doncaster Council licensed driver and vehicle”.
- d) In any advertising literature or web information, a form of words must be used which clearly states to prospective customers the following:

“The driver and vehicle you are about to book are not licensed by Doncaster Council and Doncaster Council is not empowered to take licensing action against them in the event of a complaint. In the event of a complaint customers will have to deal with that other Authority where they may be licensed.”

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TO THE CHAIR AND MEMBERS OF THE LICENSING COMMITTEE

Hackney Carriage and Private Hire Licensing Policy Hackney carriage driver, private hire driver and private hire operator licensing – Safeguarding Awareness Training

EXECUTIVE SUMMARY

1. The Doncaster Council Hackney Carriage and Private Hire Licensing Policy (HC & PH Licensing Policy) includes details of the driver standards and conditions and the pre-requisite requirements before a licence will be granted.
2. It is proposed to make changes to the Policy, in particular enhancements to the suitability test for licensed drivers and operators to require all drivers and operators to undertake safeguarding awareness training. New applicants and existing licence holders would need to provide evidence of having undertaken safeguarding awareness training, delivered by an approved provider, before being considered fit and proper.
3. At the time of writing this report 624 (circa 75%) of Doncaster's licensed drivers have already, voluntarily, attended a safeguarding awareness session organised by Doncaster Council.

RECOMMENDATIONS

4. That Committee authorises the Assistant Director - Environment, to go out to consultation, with licensed drivers, private hire operators and interested parties e.g. safeguarding organisations, on the on the basis of the proposals set out in Appendix 1.
5. That the Business Safety & Licensing Manager be tasked to report back to the Committee with the outcome of that consultation, and make final recommendations to the Committee.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

6. By implementing the recommendation of this report, the Doncaster Council Hackney Carriage and Private Hire Licensing will remain up to date and fit for purpose. The safety of the travelling public of Doncaster

will not be compromised by the recommendations of this report.

BACKGROUND

7. Since October 2015 Doncaster taxi drivers have been offered, on a voluntary attendance basis, safeguarding training arranged by the Council's Business Safety and Licensing team, in a joint quest to protect the safety of the travelling public.
8. The decision to introduce the training was made following the publication of the Jay report into child sexual exploitation in Rotherham and the subsequent Casey report into Rotherham Council's exercise of its functions on governance, children and young people, and taxi and private hire licensing.
9. Both the Jay and Casey reports indicated that licensed vehicles played a prominent role in the issues in Rotherham and as result there has been a significant impact on public confidence in taxi and private hire drivers.
10. The training is being delivered by Sheffield Futures, an independent charitable organisation forming part of a national working group that has delivered CSE/safeguarding training to drivers licensed across South Yorkshire.
11. It covers the following key areas:
 - Understanding the need to protect vulnerable adults, young people and children.
 - Identifying possible victims of abuse and exploitation by understanding indicators of risk.
 - Identifying sources of advice and pathways for reporting concerns.
 - Understanding their roles and responsibilities in relation to personal safety and security.
12. To date over 650 delegates have attended one of the 16 awareness raising sessions. 73% (624) of the taxi drivers currently licensed by Doncaster Council have already voluntarily attended one of the sessions.
13. All our licensed drivers need to command the highest level of confidence before they transport passengers – especially those who may be considered vulnerable. It is, therefore, considered appropriate to make attendance at one of the Council's safeguarding awareness raising sessions a pre-requisite requirement of all new applicants for a taxi driver's licence before a licence is granted and a mandatory requirement of all existing licence holders i.e. everyone licensed to drive private hire vehicle and or a hackney carriage.

14. The HC & PH Licensing Policy (the Policy) was adopted by Council on 19th January 2012. It is within the remit of the Licensing Committee to determine policies that are relevant to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions unless the policy must be determined by Full Council. The Policy was last revised by the Licensing Committee on the 17th March 2016

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

15. The options are to do nothing and continue to offer safeguarding awareness training on a voluntary basis to those new applicants and existing licence holders that recognize its value or look to make it policy for all taxi drivers (new and existing) to have undertaken the training before they can be considered 'fit and proper' to hold or continue to hold a licence to drive a hackney carriage or private hire vehicle.
16. The benefits of all taxi drivers undertaking safeguarding training with a view to them being the 'eyes and ears' of the community is widely acknowledged. It is widely recognized best practice to require taxi drivers to attend safeguarding awareness training and by looking to make this policy for Doncaster licence holders we would ensure that our standards are comparable with a significant number of other Councils.
17. Having a policy that is clear and up to date in terms of the law and best practice is the keystone to an effective taxi licensing regime. For the above reasons, coupled with the fact that almost three quarters of our licensed drivers have recognized the value of the training and supported it by attending voluntarily, the recommended option is to consult with a view to this becoming a mandatory requirement of all licensed drivers and operators.

IMPACT ON THE COUNCIL'S KEY PRIORITIES

18.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • Mayoral Priority: Creating Jobs and Housing • Mayoral Priority: Be a strong voice for our veterans • Mayoral Priority: Protecting Doncaster's vital services 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People live safe, healthy, active and independent lives.</p>	<p>The Policy ensures that licensing decisions can be made fairly and in</p>

	<ul style="list-style-type: none"> • Mayoral Priority: Safeguarding our Communities • Mayoral Priority: Bringing down the cost of living 	a timely manner with the overriding aim of protecting the public.
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • Mayoral Priority: Creating Jobs and Housing • Mayoral Priority: Safeguarding our Communities • Mayoral Priority: Bringing down the cost of living 	The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.
	<p>All families thrive.</p> <ul style="list-style-type: none"> • Mayoral Priority: Protecting Doncaster's vital services 	None
	Council services are modern and value for money.	Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible.
	Working with our partners we will provide strong leadership and governance	None

RISKS AND ASSUMPTIONS

20. It is accepted good practice that a Licensing Authority adopts a statement of licensing policy in respect of taxi licensing. By not having a Policy decisions of the Licensing Authority are more open to challenge.

LEGAL IMPLICATIONS

21. Sections 51(1), 55(1) and 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall not grant a licence to drive private hire or hackney carriage vehicles or to operate private hire vehicles unless they are satisfied that the applicant is a fit and proper person to hold such a licence.
22. Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 provide a right of appeal to the magistrates' court to a person aggrieved by the refusal of a district council to grant a licence on the ground that they are not a fit and proper person to hold such a licence.
23. To lessen the risk of judicial challenge effective consultation should occur. If the effect of the new policy is to tighten up on the existing

regulatory regime, then if this is to apply in respect of existing licence holders, those licence holders need to understand that this will be the effect of the policy and they must be given the opportunity to make representations.

24. It is considered lawful to review existing licensees as a result of a clearly worded and implemented policy. There is a lawful foundation that lies at the heart of the proposal – public safety. If the policy wording is not clear then a licence holder may advance an argument that they have a legitimate expectation to enjoy the use of the licence unless there is a material change. That material change may come in the form of a new policy inviting greater expectations. It would not be approached as a retrospective application of a new policy to existing licensees as such, but rather an immediate application of a regime that has public safety at the heart of its concerns.

FINANCIAL IMPLICATIONS

25. Costs of the Safeguard Awareness Training are currently being met by funding available through the approved training provider, Sheffield Futures. There are no additional costs to the Authority. If the current funding arrangement alters then a reassessment of available resources must be made.
26. The Council does incur some support costs associated with the training. Cost associated with the applications and their determinations is met from the fees paid to the Council by applicants for Taxi Licences under the relevant legislation.

HUMAN RESOURCES IMPLICATIONS

27. Not applicable

TECHNOLOGY IMPLICATIONS

28. Not applicable

EQUALITY IMPLICATIONS

29. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

30. It is proposed to undertake a 4 week consultation with licensed drivers, private hire operators and interested parties e.g. safeguarding organisations on the basis of the proposals set out in Appendix 1.

BACKGROUND PAPERS

31. Doncaster Council's Hackney Carriage and Private Hire Licensing Policy.

REPORT AUTHOR & CONTRIBUTORS

Paul Williams, Business Safety & Licensing Manager
Tel: (01302) 737837
E: mail: pj.williams@doncaster.gov.uk

Marie-Clare Churchman, Senior Legal Officer
Telephone: 01302 736722
Email: marie-clare.churchman@doncaster.gov.uk

Tracy Edlin, Senior Finance Officer
Telephone: 01302 737418
Email: tracy.edlin@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

Appendix A

It is proposed that the Hackney Carriage and Private Hire Licensing Policy be amended as follows:

1. Section 3 of the Policy (Hackney Carriage and/or Private Hire Driver Licence – New and Renewal applications) be amended to include the following statement:

In order for the Council to establish whether an applicant is fit and proper the applicant must provide evidence of:

- Attending a safeguarding awareness session approved by Doncaster Council.

2. Section 5.0 of the Policy (Private Hire Operators Licence) be amended to include the following statement:

In order for an operator to prove that they are fit and proper they must provide evidence that they:

- Have attended a safeguarding awareness session approved by Doncaster Council and demonstrated a commitment to cascade this knowledge to all staff directly involved with the day to day operation of the business in particular those involved in taking bookings and dispatching vehicles and drivers.

Application to existing licence holders

In addition to the above applying to all new applicants with immediate effect from the date of implementation, it is also proposed that the Policy be applied immediately applied to all existing licence holders with effect from 31st March 2017.

The Policy will be revised to the effect that any licence holder who has not attended a safeguarding awareness session by 31st March 2017 will no longer be considered fit and proper and their licence will be suspended or their renewal refused until they have done so.

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