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LICENSING COMMITTEE
Monday, 16 October 2023

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| Subject | Reporting recommendations of Scrutiny Committee |
| Cabinet Member | Councillor Jan Candy Cabinet Member with responsibility for Community Health |
| Report Author(s) | Martin Clarke Licensing Manager and Housing Lead Lawyer martin.clarke@eastsoffolk.gov.uk |
| Head of Service | Chris Bing Head of Legal and Democratic Services chris.bing@eastsoffolk.gov.uk |
| Director | Kate Blakemore Strategic Director kate.blakemore@eastsoffolk.gov.uk |

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| Is the report Open or Exempt? | OPEN |
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| Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information. | Not Applicable |
| Wards Affected: | All Wards |

Purpose and high-level overview

Purpose of Report:

Licensing Committee is asked to review the recommendations of the Council's Scrutiny Committee following their review of the Hackney Carriage and Private Hire Vehicle Licences on 21 September 2023.

Options:

Licensing Committee is asked to consider the recommendations of the Council's Scrutiny Committee following their review of the Hackney Carriage and Private Hire Vehicle Licences and determine which recommendations they wish officers to explore further with a view to reporting back and implementing.

Recommendation/s:

Licensing Committee is asked to note and consider the recommendations of the Council's Scrutiny Committee following their review of the Hackney Carriage and Private Hire Vehicle Licences and determine which recommendations they wish officers to explore further with a view to reporting back and implementing.

Corporate Impact Assessment

Governance:

Not Applicable

ESC policies and strategies that directly apply to the proposal:

Not Applicable

Environmental:

Not Applicable

Equalities and Diversity:

No impact

Financial:

Not Applicable.

Human Resources:

No impact

ICT:

No impact

Legal:

Not Applicable

Risk:

Not Applicable.

External Consultees:

Not Applicable

Strategic Plan Priorities

| Select the priorities of the Strategic Plan which are supported by this proposal: (Select only one primary and as many secondary as appropriate) | | Primary priority | Secondary priorities |
|---|--|-------------------------------------|-------------------------------------|
| T01 | Growing our Economy | | |
| P01 | Build the right environment for East Suffolk | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| P02 | Attract and stimulate inward investment | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| P03 | Maximise and grow the unique selling points of East Suffolk | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| P04 | Business partnerships | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| P05 | Support and deliver infrastructure | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| T02 | Enabling our Communities | | |
| P06 | Community Partnerships | <input type="checkbox"/> | <input type="checkbox"/> |
| P07 | Taking positive action on what matters most | <input type="checkbox"/> | <input type="checkbox"/> |
| P08 | Maximising health, well-being and safety in our District | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| P09 | Community Pride | <input type="checkbox"/> | <input type="checkbox"/> |
| T03 | Maintaining Financial Sustainability | | |
| P10 | Organisational design and streamlining services | <input type="checkbox"/> | <input type="checkbox"/> |
| P11 | Making best use of and investing in our assets | <input type="checkbox"/> | <input type="checkbox"/> |
| P12 | Being commercially astute | <input type="checkbox"/> | <input type="checkbox"/> |
| P13 | Optimising our financial investments and grant opportunities | <input type="checkbox"/> | <input type="checkbox"/> |
| P14 | Review service delivery with partners | <input type="checkbox"/> | <input type="checkbox"/> |
| T04 | Delivering Digital Transformation | | |
| P15 | Digital by default | <input type="checkbox"/> | <input type="checkbox"/> |
| P16 | Lean and efficient streamlined services | <input type="checkbox"/> | <input type="checkbox"/> |
| P17 | Effective use of data | <input type="checkbox"/> | <input type="checkbox"/> |
| P18 | Skills and training | <input type="checkbox"/> | <input type="checkbox"/> |
| P19 | District-wide digital infrastructure | <input type="checkbox"/> | <input type="checkbox"/> |
| T05 | Caring for our Environment | | |
| P20 | Lead by example | <input type="checkbox"/> | <input type="checkbox"/> |
| P21 | Minimise waste, reuse materials, increase recycling | <input type="checkbox"/> | <input type="checkbox"/> |
| P22 | Renewable energy | <input type="checkbox"/> | <input type="checkbox"/> |
| P23 | Protection, education and influence | <input type="checkbox"/> | <input type="checkbox"/> |
| XXX | Governance | | |
| XXX | How ESC governs itself as an authority | <input type="checkbox"/> | <input type="checkbox"/> |

How does this proposal support the priorities selected?

Licensing plays an important role in the themes in the Council's Strategic Plan of growing our economy and enabling our communities. Hackney carriage and private hire vehicles are a key part of the public transport system, enabling people without their own private transport or without easy access to other means of public transport to travel for education, employment, and entertainment, to shop and to attend medical appointments or deliver/receive care. Licensing Services is responsible for ensuring that those licensed to drive Private Hire Vehicles (PHV) and Hackney Carriages (HC) are 'fit and proper' namely that they are safe drivers with good driving records and adequate experience, mentally and physically fit, honest and not persons who would take advantage of their passengers. This report brings back to Licensing Committee recommendations of the Scrutiny Committee for consideration.

Background and Justification for Recommendation

| 1 Background facts | |
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| 1.1 | On 21 September 2023, Scrutiny Committee undertook a review of the Council's Hackney Carriage and Private Hire Vehicle Licences. |
| 1.2 | <p>At this meeting, the Scrutiny Committee made the following recommendations to Licensing Committee:</p> <ol style="list-style-type: none">1. An additional Enforcement Officer be employed to ensure adequate enforcement across the whole district.2. That the Licensing Committee consider the following matters raised during the Scrutiny Committee's review into the Hackney Carriage and Private Hire Licence Regime:<ul style="list-style-type: none">· Introduce ways to attract more drivers to the industry, including streamlining processes· Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc· Review, and consider lobbying the Government and Local Government Association (LGA) in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System. |

| 2 How to address current situation | |
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| 2.1 | That the Licensing Committee be recommended to approve an increase in the number of Enforcement Officers to ensure adequate provision across the whole district. |
| | Officer response: Due to the geography of East Suffolk, with Lowestoft and Felixstowe, the 2 main centres of population and consequently licensable activities, |

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| | being 50 miles apart, it is difficult for one Enforcement Officer to adequately cover the district. It would be of great assistance to the Licensing Team and would provide greater protection to the trade and public if an additional Enforcement Officer could be funded. Although the Enforcement Officers would be flexible, it is anticipated that one would cover the north of the District and one would cover the south of the District. |
| | An Enforcement Officer is a Band 5 Post. At the top of the banding, the cost to the Council would be £41,850. Licensing Services could not fund a new Enforcement Officer post within its current budget. Therefore, this money would need to be provided for either by the General Fund or through increased licensing fees. This would be a matter for members to determine. |
| 2.2 | Introducing ways to attract more drivers to the industry, including streamlining processes |
| | Officer response: The Council currently requires all the processes which are in place as the Licensing Committee has previously considered that all of the requirements are necessary to ensure that Licensed Drivers are 'Fit and Proper' persons. |
| | Private Hire and Hackney Carriage drivers are in a unique position of trust. They transport the public, including children and vulnerable adults. People are voluntarily getting into a motor vehicle with a stranger. Therefore, the Council must ensure that drivers are, and remain, 'fit and proper' to hold a licence. This requirement is contained within Sections 51 and 59 of The Local Government (Miscellaneous Provisions) Act 1976 (Part II). Would you allow your son, daughter, spouse, partner, mother, father, grandson or granddaughter, or any other person for whom you care, to get into a vehicle with this person alone? Would you trust this person to take you to the airport and be comfortable with them knowing that your home is going to be empty for a while? If the answer to any of these questions is no, then the person is not a fit and proper to hold a driver's licence. |
| | The Fit and Proper person test is the legal test for determining whether a person should be given a Licence. Under Part 2 of the Local Government (Miscellaneous Provisions) Act 1976, the local licensing authority cannot licence a driver unless satisfied that they are a fit and proper person. The fit and proper person test is a matter for the sub-committee to determine after a hearing. If a licence is granted that person must then remain fit and proper for the duration of that licence. |
| | A new applicant is required to attend an in-person appointment at one of the Council's offices with a Licensing Officer. There is an initial language proficiency test which involves elements of speaking, writing and reading the English language. |
| | There are various tools to assist the Council in ascertaining whether the person is a fit and proper person and a suitable driver in accordance with our policy: <ol style="list-style-type: none"> 1. We obtain an enhanced DBS check. This reveals whether the applicant has any convictions or cautions. Unlike for most other jobs, these are never spent. In addition, as the check is enhanced, the Chief Constable has discretion to add additional information and intelligence even if this does not relate to a conviction. The local licensing authority has a criminal records policy, and some offences will automatically bar a person from having a licence, the length of the bar can vary from 3 years following conviction to a lifetime bar. In all circumstances an applicant can require that their matter be put before the sub-committee. |

2. There is a medical test. The driver's doctor, who has access to their medical history, must certify that they are medically fit to be a driver. The medical standard expected is that of a Group 2 DVLA vehicle driver. Group 2 licence holders are permitted to drive large goods vehicles, buses, and coaches. The medical test needs to be retaken at 45 and every 5 years after until 65 when it becomes a yearly test. Licence conditions state that we must be informed of any changes to medical circumstances which may affect driving ability.
3. An applicant is required to undergo a driving test with our independent assessor.

A driving assessment must be completed to ensure the applicant is competent in vehicular control and is able to carry out manoeuvres smoothly and safely. Part of the assessment includes a knowledge test to demonstrate the applicant has adequate knowledge of the relevant legislation and the Council's licensing requirements.

A hackney carriage applicant will also be required to undertake a test which will involve having geographical knowledge and being able to state the shortest route between two points given by the examiner.

4. An applicant is required to undergo a 2-day college course relating to the role of a professional taxi and private hire driver and the syllabus includes:
 - Health and safety in the taxi and private hire work environment
 - Road safety when driving passengers in a taxi or private hire vehicle
 - Professional customer service in the taxi and private hire industry
 - Taxi and private hire vehicle maintenance and safety inspections
 - The regulatory framework of the taxi and private hire industry
 - Taxi and private hire services for passengers who require assistance
 - Routes and fares in the taxi and private hire vehicle industries
 - Transporting of parcels, luggage and other items in the taxi and private hire industries
 - Transporting of children and young persons by taxi or private hire vehicles (safeguarding, county lines and exploitation)
 - Disability awareness

The Council checks the National Register of Taxi and Private Hire Licence Revocations and Refusals database, also known as the NR3S database, this is a government mandated database where Local Authorities are required to input data about any driver whose licences they have revoked or suspended or refused to grant or refused to renew. This is to stop drivers going from one authority to another in search of getting a Licence.

It must be borne in mind that that the 2-day college course, is not just about the driver's conduct, it is there equip the drivers with the tools to spot Child Sexual Exploitation or County Lines Drug Networks both of which have involved the use of Taxi and Private Hire vehicles in other parts of the country. East Suffolk is not immune from the threat of Child Sexual Exploitation or County Lines Drug Networks and the Council needs to do all it can to minimise the risk of its licenced vehicles being used in these criminal enterprises.

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| | It was noted at Scrutiny that there may be scope to explore reducing the 2 day college course from 2 days to 1 day, |
| | It is a matter for the Licensing Committee to consider whether the process can be made more streamlined and if so, what steps can be removed or shortened. The Licensing Committee will need to consider whether or not the streamlining reduces the standards and safeguards in place, and if standards and safeguards are reduced by streamlining the process whether this is a proportionate action. |
| | Officers draw the Licensing Committees attention to the following documents: <ol style="list-style-type: none"> 1. Report of Inspection of Rotherham Borough Council dated February 2015 and in particular pages 103-117, this is attached as Appendix C 2. Report of the Independent Inquiry into Telford Child Exploitation and in particular pages 588-633, this is attached as Appendix D 3. Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire developed as a direct result of the learning from the Bullfinch investigation into historical child sexual exploitation in Oxford, at Appendix E |
| 2.3 | Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc |
| | Officer response: Currently operators assist potential drivers with the cost by providing them with funding which is then repaid by the driver working for the operator. The operator takes the commercial risk that the driver may not repay the cost. It is a matter for elected members to determine whether the East Suffolk Council Taxpayer's should take on this risk. |
| | If members consider that East Suffolk Council Taxpayer's should take on this risk, then it is submitted that requirements would need to be imposed upon the applicants to ensure that they are intending to drive in the East Suffolk District as otherwise East Suffolk Council taxpayers would be subsidising then to drive in other districts. |
| | The administration of any scheme would involve expense, in particular checking eligibility and ensuring that any requirements were complied with. There would need to be a mechanism for recovery of loans, staggered payments or grants where conditions have not been complied with. This will involve additional officer time which will incur expense. |
| | Licensing Services could not fund this scheme within its current budget. Therefore, this money would need to be provided for either by the General Fund or through increased Licensing Fees. This would be a matter for Members to determine. We would need to consider whether such a scheme would be lawful, both in relation to the Council providing a financial benefit to applicants and also, if Members were minded funding such a scheme via increased licence fees, whether it would be lawful to recover the cost of the scheme from licence fee payers. |
| 2.4 | Review, and consider lobbying the Government and LGA in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System. |
| | Officer response: The Task and Finish Group report was published on the 24 th September 2018, the Department for Transport's Statutory Taxi and Private Hire Standards were published on the 21 st July 2020 and last updated on the 25 th November 2022. It is submitted that lobbying the Government and Local Government Association regarding the recommendations in the 2018 report would |

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| | not be a commensurate use of officer or Member time, as it is considered the Department for Transport would have considered the Task and Finish Group's Report when devising the new standards. |
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3 Reason/s for recommendation

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| 3.1 | Licensing Committee is asked to consider Scrutiny Committee's recommendations for improving existing procedures and process in relation to hackney carriage and private hire licensing in East Suffolk. |
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Appendices

Appendices:

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| Appendix A | Task and Finish Group Report dated 28 th September 2018 |
| Appendix B | Statutory Taxi and Private Hire Vehicle Standards dated 25 th November 2022 |
| Appendix C | Report of Inspection of Rotherham Borough Council dated February 2015, Introduction and pages 53-54 and pages 103-117 |
| Appendix D | Pages 588-633 of report of the Independent Inquiry into Telford Child Exploitation |
| Appendix E | Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire |

Background reference papers:

None