



## LICENSING COMMITTEE

Monday 20 January 2020

### INTRODUCTION OF A DRUG TESTING POLICY FOR NEW AND EXISTING LICENSED DRIVERS

#### EXECUTIVE SUMMARY

To seek the Licensing Committee's approval to consult upon a proposal to introduce a new Drug Testing Policy in connection with, firstly, the granting of licences to drive private hire and hackney carriages to persons who may have drug-related offences and, secondly, the detection of currently licensed drivers who may be using illegal drugs

|  |   |
|--|---|
| Is the report Open or Exempt?  | Open with the exception of <b>Appendix A which is Exempt</b>  |
| Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information. | <p><b>*Appendix A is to be considered during the CLOSED part of the Agenda because it contains exempt information as defined in Paragraph 3 of Schedule 12A to the Local Government Act 1972.</b></p> <p>It is considered that the public interest in not disclosing the exempt information outweighs the public interest in disclosing the information because the information is relevant to the company's financial or business affairs and is potentially commercially confidential. Furthermore, public knowledge as to exactly how the tests are conducted and the results analysed by the drug testing company could undermine the integrity of the drug testing process. Appendix A is not accessible through the drug company's website.</p> |

|                        |     |
|------------------------|-----|
| <b>Wards Affected:</b> | All |
|------------------------|-----|

|                        |  |
|------------------------|--|
| <b>Cabinet Member:</b> | Councillor Mary Rudd – Cabinet Member for Community Health |
|------------------------|--|

|                            |  |
|----------------------------|--|
| <b>Supporting Officer:</b> | <p>Chris Bing<br/>         Legal and Licensing Services Manager<br/>         01394 444408<br/>         chris.bing@eastsoffolk.gov.uk</p> |
|----------------------------|--|

## 1 INTRODUCTION

- 1.1 In the past 18 months, the Licensing Authority has suspended/revoked the licences of two hackney carriage and private hire drivers. This was as a result of the arrest of the drivers, in separate incidents, on the roadside by Suffolk Constabulary. A Licensing Sub-Committee has also recently imposed a condition on a driver to undergo a drug test before a licence is granted and, in another case, required random drug testing of a driver for a specified period after the granting of their licence.
- 1.2 Whilst the numbers of licensed taxi/private hire drivers who have been arrested for drug driving is very small when compared with the overall number of licensed drivers (589), it has to be recognised that occasionally it is brought to the attention of the Licensing Authority that a driver is allegedly prepared to take illegal drugs and drive their vehicles. A Policy which permits the Licensing Authority to test applicants and licensed drivers in specified circumstances for the misuse of drugs hopefully also acts as a deterrent to those considering taking illegal drugs and/or encourages those who are currently taking illegal drugs to cease doing so because of the potential risk to their licence and livelihood, in addition to any possible criminal sanctions.
- 1.3 The Council as Licensing Authority is under a duty to satisfy itself, before granting an application for a hackney carriage / private hire driver's licence, that an applicant is a fit and proper person to be granted a licence. Moreover, once granted a licence can be revoked (or not renewed) if "reasonable cause" exists to do so. It would be completely unacceptable, because of the risks to public safety, for a drug user to be granted a hackney carriage / private hire driver's licence as they cannot reasonably be considered to be a fit and proper person to be granted a licence. Likewise, a licensed driver who takes illegal drugs presents a clear risk to public safety and ought therefore to have their fitness to hold a licence reviewed upon discovery of their drug use.
- 1.4 Therefore it is now necessary to put in place an appropriate and proportionate procedure which, so far as reasonably practicable, firstly prevents drug users from being granted licences in the first place or having them renewed and, secondly detects those drivers who are currently licensed but who use drugs.
- 1.5 The Licensing Team has engaged the services of a toxicology company, Alere Toxicology (a UKAS accredited testing laboratory) to conduct drug testing of applicants and existing drivers. The company provides 'collectors' to carry out tests so that Council staff do not have to be directly involved with the testing procedure at any stage. A copy of their brochure is appended to this report at **Appendix A (EXEMPT\*)** for information. The provision of Certificates by a UKAS accredited testing laboratory is considered essential to ensure the integrity of any proposed policy as the drug testing industry is not a regulated industry with its own regulator. UKAS is the sole national accreditation body recognised by the UK Government to assess, against internationally agreed standards, organisations that provide drug testing services.
- 1.6 The most appropriate and feasible testing process is by way of urine analysis. This will take place at the Council offices and will be carried out by the company's 'collector'.
- 1.7 A proposed draft policy is set out in **Appendix B**.
- 1.8 The cost of the drugs test is currently around £300. To date, the Licensing Authority has covered the cost of drivers being drugs tested in all circumstances. However, with the new policy, it is proposed that new applicants with drug related convictions and applicants with recent drug related convictions seeking to renew their licences will be required to pay for their drug tests to satisfy the Licensing Authority that they are clean.

In circumstances where drug testing is intelligence-led or as a result of a condition on a licence imposed by the Sub-Committee requiring random drug testing of a driver, it is proposed that the Licensing Authority will continue to cover the cost of the drug testing.

- 1.9 If the recommendation in this report is approved, the Legal and Licensing Services Manager will undertake a consultation exercise with the trade and report the responses back to a future meeting of the Licensing Committee.

## **2 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?**

- 2.1 Licensing plays an important role in the building of a strong, sustainable, and dynamic local economy and in ensuring East Suffolk remains a safe place for our communities.

## **3 CONSULTATION**

- 3.1 If the recommendation in this report is approved, all hackney carriage drivers, private hire drivers and private hire operators licensed by East Suffolk Council will be consulted on the proposed new policy and will be given six weeks in which to submit comments on the proposal. Any comments received during the consultation period will be collated, reviewed and reported back to the Licensing Committee together with recommendations as to whether the draft policy should be amended in any respect in response to the feedback received.

## **4 REASON FOR RECOMMENDATION**

- 4.1 The Licensing Authority is responsible for ensuring that only fit and proper persons who are suitable to be licensed drivers are granted licences and remain licensed. An applicant, or licensed driver, who uses illegal drugs would risk compromising the safety of those they transport, other drivers and themselves and so would not be a fit and proper person. The Licensing Authority needs a policy which provides for the mandatory drug testing of applicants with a known history of illegal drug use and existing drivers who the Licensing Authority has reason to believe may be using drugs or where the Licensing Authority understands a driver is under investigation by the police, and/or has been arrested and/or cautioned and/or charged and/or prosecuted and/or convicted for misuse of drugs.

### **RECOMMENDATIONS**

1. That the proposed draft Policy for Detecting Use of Illegal Drugs set out at Appendix B to this report be approved for the purposes of consultation with hackney carriage drivers, private hire drivers and private hire operators licensed by East Suffolk Council; and
2. That a further report be submitted to a future Licensing Committee setting out the responses to the consultation prior to any final decision to adopt the policy as drafted, or as amended in response to consultation responses, being made.

### **APPENDICES**

|                   |   |
|-------------------|---|
| <b>Appendix A</b> | Alere Toxicology information brochure <b>EXEMPT</b> |
| <b>Appendix B</b> | Draft Policy for Detecting Use of Illegal Drugs     |

**BACKGROUND PAPERS**

Please note that copies of background papers have not been published on the Council's website [www.eastsuffolk.gov.uk](http://www.eastsuffolk.gov.uk) but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.

| Date | Type            | Available From |
|------|-----------------|----------------|
|      | None applicable |                |