



Licensing Committee agenda

Date: Wednesday 14 June 2023

Time: 6.30 pm

Venue: The Oculus, Buckinghamshire Council, Gatehouse Road, Aylesbury HP19 8FF

Membership:

A Baughan, J Baum, D Dhillon, P Gomm, T Green, P Griffin, N Rana, J Rush, N Southworth, B Stanier Bt, D Town, J Towns, G Wadhwa, H Wallace (Chairman) and A Wood

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April 2023 and 17 May 2023.

Part A - Statutory Functions

None

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For further information please contact: Elly Cook / Shilpa Manek
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Agenda Item 4
Buckinghamshire Council
Licensing Committee

Minutes

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD ON TUESDAY 11 APRIL 2023 IN THE OCULUS, BUCKINGHAMSHIRE COUNCIL, GATEHOUSE ROAD, AYLESBURY HP19 8FF, COMMENCING AT 6.30 PM AND CONCLUDING AT 7.55 PM

MEMBERS PRESENT

D Barnes, J Baum, N Southworth, B Stanier Bt, G Wadhwa, H Wallace and A Wood

Agenda Item

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs Andrea Baughan, Tony Green, Caroline Jones, Nabeela Rana, Jonathan Rush, Derek Town and Jocelyn Towns.

The Chairman welcomed Cllr Andrea Baughan, in her absence, who had recently joined the Committee to replace Cllr David Watson.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting held on 1 February 2023 were agreed as a correct record.

4 TAXI AND PRIVATE HIRE LICENSING FEES AND CHARGES

The Committee received a report on Taxi and Private Hire Licensing Fees and Charges. The report sought the approval of proposed fee levels, attached at Appendix A of the report, following the full consultation process, including required statutory advertising. If approved, the proposed fees and charges would take effect on the 24 April 2023.

Taxi and private hire licensing fees could only be set at levels to recover such costs as were prescribed in law. The Council could not make a profit from licence fees and any shortfall in revenue, if not met by licence fee payers, must be borne by the Council as a whole. In practice, this meant that the costs of the Service should ideally be covered entirely by taxi licensing fee income into the Council. Any surplus or deficit must be carried forward and form part of any subsequent review of fees.

Taxi and private hire fees and charges were last approved in July 2021 as part of the implementation of a new Taxi and Private Hire Licensing Policy for Buckinghamshire, which came into effect in September 2021. The Licensing Service also went through the Better Buckinghamshire programme in 2021 and new structures for a harmonised Licensing Service,

organised by specialism rather than geographical location, came into effect from the 1 September 2021. This created a single taxi and private hire licensing service serving the whole of Buckinghamshire and operating under the new Policy.

Since September 2021, the Taxi Licensing service had delivered Policy changes, as well as improvements in systems and processes, which had required significant resource to deliver. The service had also moved to a single back-office system and redesigned the way that the service was provided. Having undertaken significant implementation and improvement work, the service was now stable and operating in a business as usual fashion.

The changes had included implementation of the Department for Transport (DfT) Statutory Taxi and Private Hire Vehicle Standards, which were introduced in July 2020 and aimed to protect children and vulnerable adults from exploitation. The Statutory Standards introduced significant additional requirements for local authorities carrying out taxi and private hire licensing functions. Government was clear at the time of introduction that it was anticipated that local authorities would seek to cover the costs of these additional requirements from driver licence fees.

Following a full budget review of the taxi and private hire licensing service between September and December 2022, the Committee received a report on the budget position for taxi and private hire licensing at the meeting of the 1 February 2023. This report advised that the 2022/23 end of year forecast budget position was an overspend position of £100k. Vacancies within the service had been proactively managed over several months relative to the ongoing budget forecast position and as a result there was a 13.5% forecast underspend on employee costs over the 2022/23 period of £131k. However, application income into the services was 19.8% lower than anticipated and therefore the underspend on employee costs did not fully mitigate this budget impact. Additionally, running costs had increased by 28.2% over this period, in part reflecting increased supplier costs.

The taxi licensing service had recently undertaken formal consultation with staff within the service on structural changes which would reduce salary overheads by £146K. The new structure would be implemented from the 1 May 2023. Whilst these savings would assist in returning the service to a cost neutral position, the need to increase fee income into the service remained.

The Council could not make a profit from licence fees and any surplus or deficit should be carried forward and recovered from the licensed trade over a rolling 3-year period. This meant that the £100k overspend at year end for 2022/23 should be recovered across the next 3-year period and the review of fees and charges had incorporated this requirement.

In order to ensure and sustain a cost neutral budget position, where cost recovery adequately funds the service, a combination of measures was required. This included reducing overheads within the taxi and private hire licensing service as far as was possible to reflect current demand levels (this had been primarily addressed through a reduction in headcount within the service) and increasing fees and charges to the licensed trade. Whilst the Service was very mindful of the impacts of an increase in fee levels to the licensed trade, it was being proposed that fees should increase to cover the costs of the service, or costs would be borne by the taxpayer.

At the meeting of the 1 February 2023, the Committee agreed to approve the proposed fees and charges for statutory advertisement and consultation. Since that meeting the fees and charges had been advertised in a newspaper within the Council area, as required by the legislation. All licence holders were contacted by email, as well as via the regular Taxi and Private Hire Licensing Newsletter which was sent to all licence holders. The Council also engaged with representatives of the taxi and private hire trades, including the Licensed Private Hire Car

Association (LPHCA), on the consultation via the Taxi Working Group as part of a scheduled meeting. The consultation was promoted to wider stakeholders, including the travelling public, via the Council's Facebook pages. The consultation ended on the 15 March 2023 and 210 responses were received. 199 of these were received via the online survey and 10 were received via email. A written response was also received from the LPHCA and was provided at Appendix D of the report. These had been incorporated into the consultation analysis, which was provided at Appendix E of the report.

The majority of respondents to the survey (67%) were members of the taxi and private hire trade or trade representatives. 33% of respondents were not members or representatives of the licensed trade. The majority of all respondents lived and/or worked in Buckinghamshire. When asked whether they agreed with or objected to the proposed fees, 88% of respondents objected. When considered by respondent type, 96% of taxi and private hire licence holder respondents objected to the proposed fees, with the cost-of-living crisis (54%) given within free text comments as the most common reason for objecting. 72% of non-licence holders objected to the proposed fees with consumer impact (13%) given within free text comments as the most common reason for objecting.

Respondents were asked whether they thought it was acceptable for the costs of the taxi and private hire licensing service to be paid for by the taxpayer if fee income did not cover the costs of providing the service. A small majority (53%) of respondents said it was not acceptable for the costs of the service to be borne by the taxpayer. When this was considered by respondent type, 76% of non-licence holder respondents felt it was unacceptable. 58% of taxi and private hire licence holder and trade representative respondents felt that it was acceptable that the taxpayer should pay for the costs of the taxi and private hire licensing service.

Overall, the results of the consultation were as expected and were not surprising given the current economic situation and inflationary climate. However, unless the costs of the taxi and private hire licensing service were to be borne by the wider taxpayer, the costs of the taxi and private hire licensing service should be covered entirely by taxi licensing fee income into the Council.

A benchmarking exercise was carried out of current fee levels charged by neighbouring local authority areas (12) and this was attached at Appendix B of the report. A comparison of the proposed fees against the current average fee charged across the neighbouring local authorities was attached at Appendix C of the report. The proposed fees compared reasonably with the average fees charged by neighbouring authorities and remained cheaper than some. When considering affordability in the case of driver and operator licences, the licence duration periods (3 and 5 year respectively) were also relevant in terms of the cost per annum for the licence and associated activity carried out by the Council.

The Council was awaiting the imminent publication of the updated version of the Department for Transport's "Taxi and private hire vehicle licensing: best practice guidance", which would inform the review of the Council's current taxi and private hire policy requirements and likely result in consultation on changes to policy, that could positively impact the licensed trade in the longer term.

A short form equalities impact assessment, attached at Appendix F of the report, was undertaken in January 2023 and accompanied this fees and charges review.

If approved as proposed (without modification), the fees would take effect across the whole Council area on 24 April 2023. Fees must be brought into effect on or before 15 May 2023. Taxi Licensing fees and charges would continue to be reviewed annually and further reports would

be provided to this committee following review.

Members were invited to ask questions of officers. In response to a question regarding what the budget was for 2023/24 and how this compared to 2022/23, officers advised that the forecast expenditure was around £900k for the next financial year. Officers agreed to report back to Committee on the exact figure. Following a query regarding the reduction of salary overheads, officers explained that the taxi and private hire licensing service had recently formally consulted with staff on structural changes, which had resulted in a permanent reduction in 3.7 full time equivalent posts (to be implemented from 1 May 2023) and savings of £146k. The Committee were advised that the fees, which were being proposed, had taken into account this saving. Whilst these savings would assist in returning the service to a cost neutral position, there remained an overspend of £100k, which would need to be recovered over a three-year cycle period of licence fees.

In response to a question regarding whether there were any other further savings which could be made, officers explained that that the majority of the costs of the service were staffing overheads and that any further reduction in headcount based on current demand levels would impact the ability of the service to process applications in a timely manner and would also impact the level of robust enforcement activity that could be carried out by the service which underpins the Taxi and Private Hire Licensing Policy and protects and promotes public safety. In response to a question, officers agreed to report back to the Committee as to how much was spent on enforcement in the last financial year and what percentage of costs this equated to.

A Member questioned whether further savings could be made by extending the amount of time which the Council had to process a valid application by. In response, officers explained that the taxi and private hire licensing service aimed to process all valid driver and vehicle licence applications within 10 days of a valid application received (with all supporting documents). Officers explained that, in their experience, an extension of the 10 working day deadline would cause an increase in service demand as applicants would be calling to find out what was happening with their application. A delay longer than 10 working days might also cause financial hardship for the applicant. As part of the consultation, licence holder respondents were asked how important it was that applications were processed within 10 days. 90% of respondents to this question said that this was extremely or very important to them, with only 2% of respondents stating that this was unimportant.

In response to a question regarding the reduction in application income due to the decline in the number of applications received by the Council, officers explained that there were two key factors that were likely to have impacted the level of application income into the service since September 2021. The Department for Transport (DfT) Taxi and private hire vehicle statistics: England 2022 showed that nationally the number of licensed drivers had fallen by 9.4%, most likely as a result of the 2020 Covid-19 pandemic and drivers ceasing to drive and moving to other forms of employment. It was likely that the licences of some drivers who stopped driving as a result of the pandemic might only be expiring now as they were issued for a 3-year period. Therefore, driver numbers might start to increase over the next 12 months. In comparison, wider economic recovery could be seen more quickly in vehicle licence than in driver licence levels, as whilst nationally licenced vehicle numbers also fell by 15.9% in 2021, they did increase slightly in 2022 which reflected the shorter 1-year duration period. The other key factor, that was likely to have impacted the level of income received, was that prior to the formation of Buckinghamshire Council on the 1 April 2020, drivers and operators who wanted to work across more than one of the legacy district council areas would have needed to have held a licence with each of the legacy councils to legally do so. As a consequence of resolutions passed by the Council in April 2021, which created a single administrative area for taxi and private hire

licensing purposes, since 6th September 2021 only one licence was required for the respective activities of operator, vehicle and driver. Driver licences were issued for a 3- year period and operator licences for a 5-year period and therefore, where multiple licences were held, the licenceholder was able to let older licences lapse and work under the newest licence issued, up to its expiry date. Prior to the harmonisation of the taxi licensing service in September 2021 data was held in 3 different and separate legacy back-office systems. As a result, it was not possible to match datasets in a meaningful way to assess the likely impact of multiple licence holders, but it was considered that this had been a relevant factor in the reduction in income into the service.

It was noted that the service had carried out a lot of work since becoming a single taxi and private hire licensing service serving the whole of Buckinghamshire to make the application process as simple and efficient as possible for applicants. The service's webpages had been updated and there were online applications for all the service's processes. Licence holders were sent regular automatic reminders in advance of their licence expiry date to help them prepare for their pending renewal application. Drivers received notifications at 90, 60 and 30 days prior to expiry and were reminded to attend safeguard training, obtain up to date medicals and DBS certificates and book their English language assessment, if required. Applicants could upload all their documentation online onto the portal, were able to check the status of their application and receive status updates. The service was also considering running workshops for larger operators which have staff in their operating offices/bases who were struggling to submit valid applications. The service had also worked hard to engage with the taxi trade through the taxi working groups and regular newsletters to the trade. In response to a question regarding how long an application could be submitted before a licence expired, officers advised that it was three months for a driver application and one month for a vehicle application.

With regards to the benchmarking exercise which was carried out of current fee levels charged by neighbouring local authority areas, a Member enquired as to why the proposed fees for 5 year licenses seemed to be quite a bit more than other neighbouring local authority areas were charging. In response, officers advised that it did depend on the size of the operator in terms of the difference between the proposed fee and what a neighbouring authority were charging, for example Milton Keynes were charging more than the proposed fees. Since the introduction of the new Council's new Taxi and Private Hire Licensing Policy, the activity undertaken around operator licences had increased significantly. As a result of the new Policy, operator applications were subject to more scrutiny and vetting with a far higher degree of consistency than was the case across the legacy areas. This included more thorough DBS checks on applicants, including all company directors, greater scrutiny of staff working within the private hire company including DBS checks and employment policies to ensure suitability, review of lease arrangements for vehicles and background checks with other local authorities and partners, such as the Police and fraud investigation teams. This also included greater frequency of engagement and enforcement with operators to ensure that Policy requirements were understood and applied. This included an initial inspection on first application followed by an annual review/visit. It was not known if this approach was comparable to how the other authorities conduct their operator licensing regime, but this could be why the proposed fees were higher when compared to some of the other neighbouring authorities.

Following a query, officers explained that it was about a 50/50 split between drivers who work for themselves and drivers who work for a secondary operator. When asked if this had changed recently, officers advised that it had been a 50/50 split for some time. There were in the region of 50 operators delivering home to school contracts for the Council. These tended to be bigger operators of 10-50 vehicles.

In response to a question on the impact of Uber on the business of local drivers and operators, officers advised that whilst there were no Uber operators licenced in Buckinghamshire, there was likely to be some impact from Uber where Buckinghamshire borders the London authorities where it was widely used.

In the discussion which followed, a Member expressed concern that an increase in fees could result in a loss of drivers if they were not able to make enough money to continue in the profession. This would then have a negative impact on residents who rely on taxis, especially those who live in more remote areas of Buckinghamshire in areas with not very good public transport links. The Member questioned whether it would be better to just increase the fees for larger operators, who would be able to shoulder more of the cost.

Another Member also expressed concern with increasing the fees and the impact this would have on the trade. The Member commented that taxis and private hire vehicles provide a service to the public and therefore the taxpayer should help pay for the service. The Member referred to the 2022/23 budget and how it had not accurately taken account of the reduction in income due to the impact of multiple licence holders.

In response to these concerns, another Member commented that due to the need for the service to be cost neutral, the only alternative to increasing the fees would be for the cost of the taxi and private hire licensing service to be paid for by the taxpayer, which was something the Member did not agree with. Two further Members agreed with this and stated that residents should not be expected to bear the cost of the service, especially given the cost-of-living crisis. A Member drew attention to the fact that there had been a national decline in the number of driver applications and vehicle applications due to Covid 19, which had impacted application income. Reference was made to the fact that the fees and charges would be reviewed after a year to ensure that the fees and charges were set at an appropriate level and that any adjustments required could be considered if necessary.

Following a suggestion, the Chairman requested that future reports should have more of a breakdown of the fees and charges so that licence holders could have a great understanding of what their fees were being spent on. A suggestion was also made that future communications around fees to licence holders should explain how fees were being spent.

On a vote being taken the recommendation was proposed by Cllr Wood and seconded by Cllr Baum and:-

RESOLVED that the proposed fees and charges set out at Appendix A of the report be agreed. The new fees and charges to take effect on 24 April 2023.

5 BUCKINGHAMSHIRE COUNCIL DRAFT ANIMAL LICENSING POLICY

The licensing of animal related activities was complex and was governed by highly prescriptive statutory provisions and comprehensive statutory and non-statutory guidance. In accordance with the Animal Welfare Act 2006, Buckinghamshire Council, in its role as Licensing Authority, was responsible for licensing operators of businesses carrying out prescribed activities involving animals. In addition, the Council was also responsible for licensing keepers of animals, that were defined as dangerous wild animals and for the licensing of zoos.

There was currently no animal licensing policy, covering the Buckinghamshire Council area. Whilst there was no statutory requirement for a policy under any of the legislation relating to these types of licence, it was considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to animal licensing. The adoption of a policy supported the Council's commitment to transparency, fairness and openness when

determining applications and ensuring compliance with the relevant legislation.

The draft Animal Licensing Policy, attached at Appendix 1 of the report, provided guidance on the various application processes, a brief overview of relevant legislation and links to statutory guidance. The legislation and regulations under which animal licences were issued required the Council to determine, among other factors, whether the applicant was suitable or in the case of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 “fit and proper” to hold a licence. Whilst there was no legal definition of “fit and proper” in the regulations, the Policy provided an opportunity to outline matters which the Council would take into consideration when deciding if someone was suitable to hold a licence.

As well as the need to comply with the different statutory licensing requirements, it was of public interest to ensure the general safety and wellbeing of animals, those responsible for them and members of the public who might come into contact with them. The adoption of a Policy would also give the Council an opportunity to set out its expectations around safeguarding for operators of businesses whose activities take place around children and vulnerable persons.

If approved by the Committee and subject to any suggested amendments, the draft Animal Licensing Policy would undergo a six-week public consultation process with all relevant stakeholders being notified, including affected licence holders, Ward, Town and Parish Councillors, Community Boards, Thames Valley Police, Veterinary inspectors and Local Government Animal Welfare Group.

Following the consultation process, a further report would be presented to this Committee providing full details of any comments received and amendments proposed as a result.

Members were invited to ask questions of officers. In response to a question regarding how many officers were involved with the licensing of animal related activities and whether the license fees covered the staffing costs, officers advised that there were 2.5 full time equivalent animal officer posts and that the fees had been set to cover the costs of these posts. It was noted that the licensing of animal related activities was a very specific area of licensing, which required a professional qualification to deliver it.

It was noted that whilst fees were generally subject to a full review every 3 years, taking account of the recent harmonisation of the animal licensing work activities of Buckinghamshire Council and anticipated review of the LAIA Regulations at the end of 2023, the fees would initially be reviewed annually to comply with standards of fee setting. In response to a question, officers advised that following next year’s full review, it would be for the Committee to decide as to when the next full review should be.

The Committee welcomed the creation of a single policy which sets out a clear and consistent framework for the Council’s approach to animal licensing.

On a vote being taken the recommendation was proposed by Cllr Barnes and seconded by Cllr Wadhwa and: -

RESOLVED that the draft Animal Licensing Policy set out at Appendix 1 of the report be approved for consultation with relevant stakeholders.

6 DATE OF NEXT MEETING

It was noted that the date of the next meeting was Wednesday 17 May 2023 for the Election of Chairman and Wednesday 14 June 2023 to transact business.

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Buckinghamshire Council

Licensing Committee



Minutes

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD ON WEDNESDAY 17 MAY 2023 IN THE OCULUS, BUCKINGHAMSHIRE COUNCIL, GATEHOUSE ROAD, AYLESBURY HP19 8FF

MEMBERS PRESENT

H Wallace, J Baum, D Dhillon, P Gomm, T Green, B Stanier Bt, D Town, J Towns, G Wadhwa and A Wood

OTHERS IN ATTENDANCE

P Birchley (Chairman of Council)

Agenda Item

1 APOLOGIES FOR ABSENCE

Apologies were received from Councillors A Baughan, P Griffin, N Rana, J Rush and N Southworth.

2 ELECTION OF CHAIRMAN RESOLVED –

That Councillor H Wallace be elected Chairman of the Licensing Committee for the ensuing year.

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Report to Licensing (Regulatory) Committee

Date: 14th June 2023

Title: Hackney carriage and private hire licensing enforcement update

Author(s): Simon Gallacher, Principal Licensing Officer

Recommendations:

1. To note the contents of this report.

1. Background

- 1.1 Prior to the implementation of the Council's new hackney carriage and private hire licensing policy, (the "Policy") in September 2021, the Licensing Service committed to provide routine reports to the Licensing Committee related to application of the Policy.
- 1.2 On 1st February 2023 the Licensing Committee received the annual hackney carriage and private hire licensing review report. Included within the report was an update on enforcement activities by the Licensing Service for the period 1st April 2022 to 30th September 2022. This report focuses on enforcement activity for the period 1st October 2022 to 31st March 2023.

2. Main content of report

Introduction

- 2.1 The purpose of licensing private hire and hackney carriage (taxi) operations is to ensure that the travelling public are provided with a safe and accessible means of transport. Public safety is the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. The Council's Policy plays an integral part in both securing and demonstrating the Council's commitment to this important objective.
- 2.2 The report provides an overview of how the Policy is applied in practice, with a summary of application outcomes, complaints, investigations and other enforcement activity carried out by the Council's Licensing Service for the reference period 1st October 2022 to 31st March 2023.

Application overview

- 2.3 Appendix 1, fig.1, shows an overview of the total numbers of applications received by month for vehicle, driver and operator licences during the reference period. Appendix 1, Fig.2 shows the various outcomes per month (granted, rejected, refused, withdrawn, other) for all application types.

Vehicle applications

- 2.4 In accordance with the statutory provisions of the Local Government Miscellaneous Provisions Act (LGMPA) 1976, hackney carriage and private hire vehicle licences are granted for a maximum period of 12 months. On 31st March 2023, 2188 vehicles were licensed with the Council. During the reference period the Council received 1330 licence applications for vehicle licences. Of this figure, 618 applications were for new licences and 712 were applications to renew existing licences.
- 2.5 The following table shows a summary of new and renewal vehicle licence applications received by month:

	Oct 22	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23
New apps Hackney carriage	8	12	9	13	15	10
New apps Private hire	71	98	64	97	89	95
New apps Private hire executive	6	4	1	13	4	9
Total new apps	85	114	74	123	108	114
Renewal apps Hackney carriage	21	33	28	27	22	20
Renewal apps Private hire	80	102	67	82	77	111
Renewal apps Private hire executive	5	8	8	4	5	12
Total renewal apps	106	143	103	113	104	143

- 2.6 The table below provides a summary of vehicle licence application outcomes during the reference period:

	Granted	Refused	Rejected	Withdrawn	Other
Oct 22	189	3	18	3	0
Nov 22	238	0	17	5	1
Dec 22	186	4	11	3	0
Jan 23	213	8	22	2	0
Feb 23	168	4	6	1	0
Mar 23	232	2	12	7	0
Total	1226	21	86	21	1

- 2.7 The 21 refused vehicle applications relate to vehicles that failed to meet the Council's Policy requirement. Specifically, these applications were submitted for vehicles that had been deemed category S (structural) vehicle insurance write offs. In all instances, as is required, applicants were offered the opportunity to make representation before a final decision was taken. Applicants were advised that the Licensing Service may consider evidence of repairs carried out by a British Standard 10125 certified workshop, or a manufacturer approved workshop as possible grounds for exception to the Policy. To date these are the only grounds that the Licensing Service has been able to identify that would provide assurance that repairs have been carried out, and the vehicle has been returned to the same safety standards as originally manufactured. None of the vehicles were able to demonstrate that they met this standard or provide alternative evidence to warrant departure from the policy.
- 2.8 86 applications were rejected during the reference period. Applications are rejected for a variety of reasons but often because either incorrect information has been provided on application forms, incorrect supporting documents have been provided or the applicant has failed to pay the application fee. Where possible officers try to avoid rejecting applications and support is provided to help encourage applicants to submit valid applications. The licensing service also continues to review and adapt the application process to ensure it is as efficient as possible, while remaining robust to ensure the Council's policy requirements are met. Encouragingly the numbers of rejected applications have fallen significantly. During the first 6 months following the introduction of the new Policy in September 2021 the number of rejected applications was 212.

Driver applications

- 2.9 In accordance with the statutory provisions of the LGMPA 1976, hackney carriage and driver licences are expected to be granted for a period of 3 years. On 31st March 2023, 2916 drivers were licensed with the Council. Of these 2128 were private hire drivers, 677 dual drivers (both hackney carriage and private hire) and 111 hackney carriage drivers. During the reference period, the Council received 737 driver licence applications: 457 from new drivers and 280 from drivers applying to renew.
- 2.10 The following table shows a summary of new and renewal driver licence applications received by month:

	Oct 22	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23
New driver apps	80	108	60	72	66	71
Renewal driver apps	29	41	35	41	62	72
Total driver apps	109	149	95	113	128	143

- 2.11 The table below provides a summary of driver licence application outcomes during the reference period:

	Granted	Refused	Rejected	Withdrawn	Other
Oct 22	104	5	5	3	0
Nov 22	120	2	19	2	1
Dec 22	116	0	4	3	0
Jan 23	91	0	7	4	0
Feb 23	100	2	10	3	0
Mar 23	104	0	21	6	1
Total	635	9	66	21	2

2.12 9 applications were refused during the reference period on the basis that officers were not satisfied that the applicants could be considered fit and proper to be licensed. The circumstances and grounds for refusal are summarised briefly below:

Driver 1 (renew)	Renewal of licence refused. Motoring offences: disqualified from driving for TT99 (totting up) following 3 repeated MS90 (failure to provide details of the driver at the time of an alleged road traffic offence) within a period 5 months. Dishonesty: failed to disclose historic criminal offences on application form.
Driver 2 (new)	New licence refused. Motoring offence: CU80, (mobile phone use).
Driver 3 (new)	New licence refused. Conviction for Battery.
Driver 4 (renewal)	Renewal of licence refused. Motoring offence: CU80, (mobile phone use). Failed to disclose offence at time.
Driver 5 (renewal)	Renewal of licence refused. Conviction for Assault by ABH. Failed to notify at time of arrest.
Driver 6 (new)	New licence refused. Convictions for possession of class A drugs with intent to supply.
Driver 7 (new)	New licence refused. Conviction for Battery.
Driver 8 (renewal)	Renewal application refused. Medical condition. Driver prohibited from driving under Group 2 medical standards.
Driver 9 (new)	New licence refused. Multiple historic offences involving violence, theft and dishonesty.

2.13 The 66 rejected applications shown are mostly attributable to applicants failing to pay the application fee at the end of the online application process. Applicants who fail to make payment are given 48 hours to make payment, with an automatic reminder sent to them after 24 hours. If the application fee remains unpaid the application is automatically rejected. As the process is now fully automated through the Council's online and back-office application system, there is no intervention required by officers in the process.

Operator applications

2.14 In accordance with the LGMPA 1976, operator licences are expected to be granted for a period of 5 years. On 31st March 2023, 215 private hire vehicle operators were licensed with the Council. During the reference period, the Council received 37 new and 12 renewal operator applications.

2.15 The following table shows a summary of new and renewal operator licence applications received by month:

	Oct 22	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23
New operator apps	7	2	6	3	8	11
Renewal operator apps	2	3	0	0	2	5
Total operator apps	9	5	6	3	10	16

2.16 The table below provides a summary of operator licence application outcomes during the reference period:

	Granted	Refused	Rejected	Withdrawn	Other
Oct 22	6	0	6	3	0
Nov 22	9	0	2	0	0
Dec 22	3	0	3	0	0
Jan 23	4	0	0	1	0
Feb 23	3	0	2	0	0
Mar 23	2	1	7	0	1
Total	27	1	20	4	1

2.17 The 20 rejected applications shown are mainly attributable to applicants submitting multiple incomplete applications.

Complaints and investigations

2.18 In addition to determining applications, the Licensing Service regulates taxi and private hire operations through reactive and proactive activity. Reactive work is typically in response to incident reports and complaints received from members of the public, other agencies within and external to the Council, and from members of the taxi and private hire trade. Proactive work is typically pre-arranged activities, often based on intelligence, and may involve targeting locations and/or activities

such as large events, areas used by the potentially vulnerable such as schools, or specific operations such as “plying for hire” and multi-agency visits.

2.19 163 recorded complaints were received by the Licensing Service during the reference period, categorised as follows. Appendix 1, fig 3, shows the same information in graphical form.

Category	Number of complaints
Accident	4
Behaviour	32
Discrimination	4
Driving standards	50
Fare dispute	9
Other	11
Parking	22
Safeguarding concerns	8
Taxi Licensing	7
Vehicle condition	16

2.20 The licence service also records investigations. These are matters of concern that are not reported as complaints but warrant further investigation by Council officers. Investigations are typically instigated because of:

- Concerns identified during the application process
- Licence holders self-reporting, such as convictions and accidents.
- Pro-active enforcement by Council officers.
- Reports received by various sources of intelligence such as the police and other Council departments.

2.21 During the reference period, 60 investigations were instigated in respect of drivers and 14 in respect of operators. 45 of the driver investigations have been completed, while 15 remain open pending further investigation. 8 of the operator investigations have been completed and 6 remain open pending further investigation.

Enforcement drivers

2.22 During the reference period, 5 drivers had their licences revoked following an investigation. The circumstances of the revocations are briefly summarised below:

Driver 1	IN10 conviction, driving without the appropriate insurance. Council policy stipulates a rehabilitation period of 7 years for insurance offences.
Driver 2	Medical condition. Driver prohibited from driving under Group 2 medical standards. Revoked with immediate effect.
Driver 3	Motoring offence: CU80, (mobile phone use). Failed to disclose offence at time. Previous CU80 offence in 2017. Previous warning and 4 penalty points issued by licensing for dangerous driving in 2018.
Driver 4	Motoring offences: accumulation of 9 DVLA penalty points, SP30 (speeding, 59mph in 30 mph zone) and MW10 (Contravention of special road regulations, stopped to take a non-emergency phone call on the motorway hard shoulder). Failed to declare offences.
Driver 5	Motoring offences: accumulation of 9 DVLA penalty points. ID10 (Driving without due care and attention points), crossed path of oncoming vehicle resulting in injury to member of the public. Previous SP30 (speeding offence) in 2021. Licence revoked with immediate effect.

2.23 During the reference period, 16 drivers had their licences suspended. 7 drivers' licences were suspended as a consequence of contra-indications on their medical records, 6 of these licences have since been resolved and licences have been reinstated. 9 drivers were suspended for failure to attend the mandatory safeguarding and disability awareness training, 8 have of these drivers have since attended as required and licences have since been reinstated.

Enforcement - vehicles

2.24 During the reference period 349 vehicles were suspended. Vehicles are suspended for a wide variety of reasons, usually either as a result of issues identified on the annual inspection or proactive enforcement activities. Where the vehicle does not meet the Council's Policy standards but there is no immediate risk to passenger safety a suspension notice will usually be issued. In accordance with the legal provision, once served with a notice the vehicle proprietor has 21 days to rectify the issue before the suspension takes effect. Examples include advisory matters identified on the MOT inspection, missing or incorrect vehicle livery, cosmetic damage to the vehicle exterior, poor condition of external parts of the vehicle, and

missing first aid kit or fire extinguisher. In most instances the matter is resolved before the notice takes effect.

2.25 For more serious matters, vehicle licences may be suspended with immediate effect or revoked. Vehicle licences suspended with immediate effect are deemed revoked after 2 months if the issue of concern is not satisfactorily resolved. During the reference period 32 vehicle licences were revoked:

- 16 licences were revoked following an unresolved immediate suspension.
- 13 licences were revoked as a result of the licence holder not being deemed fit and proper.
- 3 licences were revoked in respect of category S insurance write off vehicles.

Enforcement - operators

2.26 Officers carry out regular routine compliance checks with operators and all new operators receive a thorough inspection when first licensed. During the reference period, 1 operator licence was revoked. The grounds for revocation are briefly summarised as follows:

- Physically threatened and attacked a Council officer, forced entry into a Council building, and subsequently arrested.
- Unlawfully blocked the public highway with vehicles and made threats to block the public highway.
- Drove a licensed private hire vehicle without holding a licence and allowed another unlicensed driver to also drive a licensed vehicle.
- Failed to provide accurate records and provide requested information, contrary to legal requirements.

Appeals

2.27 During the reference period, 3 cases were heard on appeal at the Magistrates Court.

2.28 On 27th February 2023, Magistrates upheld the Council's decision to revoke a driver's licence on grounds that he was not considered fit and proper. A video recording was received of what appeared to council officers and a police officer to be a passenger in the driver's vehicle participating in the supply of illegal drugs. Officers were all of the opinion that the driver would have had clear sight of the exchange, yet he failed to take any action. The driver also appeared to have knowingly worked for an operator outside of his licence district. The Council were awarded costs of £4051. The driver has appealed the decision to the Crown Court.

- 2.29 On 3rd March 2023, Magistrates upheld the Council’s decision to revoke a driver’s licence who was witnessed by police carrying out a reverse manoeuvre while communicating on his mobile phone. The Council was awarded costs of £3933.26.
- 2.30 On 17th March 2023, Magistrates allowed an appeal, overturning the Council’s decision to revoke a driver’s licence on the basis that the driver was not fit and proper. The driver had collected a vulnerable person from their home address and failed to deliver them to their destination, resulting in the person being left alone, in the vehicle at another address for a period of time. It was also found that the driver had made a false declaration on his previous two medicals and failed to disclose a number of underlying historic medical conditions which called into question his honesty. The Magistrate determined that the incident was a one-off mistake, and that the driver would learn from this mistake and be more vigilant in the future. It was determined that the failures to make accurate disclosures on the medical certificates would not be grounds alone to warrant revocation of the licence. No costs awarded.

3. Next steps and review

- 3.1 The Licensing Service will continue to provide regular enforcement update reports to the Licensing Committee.

4. Other options considered

None.

5. Legal and financial implications

- 5.1 Legal services have had the opportunity to review, comment and contribution to report as appropriate.
- 5.2 The preparation of this report presents no additional costs to the Council.

6. Corporate implications

- 6.1 Protecting the vulnerable – protecting the vulnerable and passenger safety are key aims of the taxi and private hire licensing regime. Regular reporting of information relating to officers’ decisions and enforcement activity to the Licensing Committee, provides an opportunity for additional scrutiny to ensure the protection of the vulnerable is at the centre of Council decision making.
- 6.2 Property – N/A
- 6.3 HR – N/A
- 6.4 Climate change – N/A

6.5 Sustainability – N/A

6.6 Data – N/A

6.7 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum whilst also ensuring that the provision of the service is cost neutral.

Key documents:

Buckinghamshire Council's [Hackney Carriage and Private Hire Licensing Policy](#).

Department for Transport, [Statutory Taxi & Private Hire Standards](#)

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Appendix 1 –

Fig 1 – applications received by month (vehicles, drivers and operators)

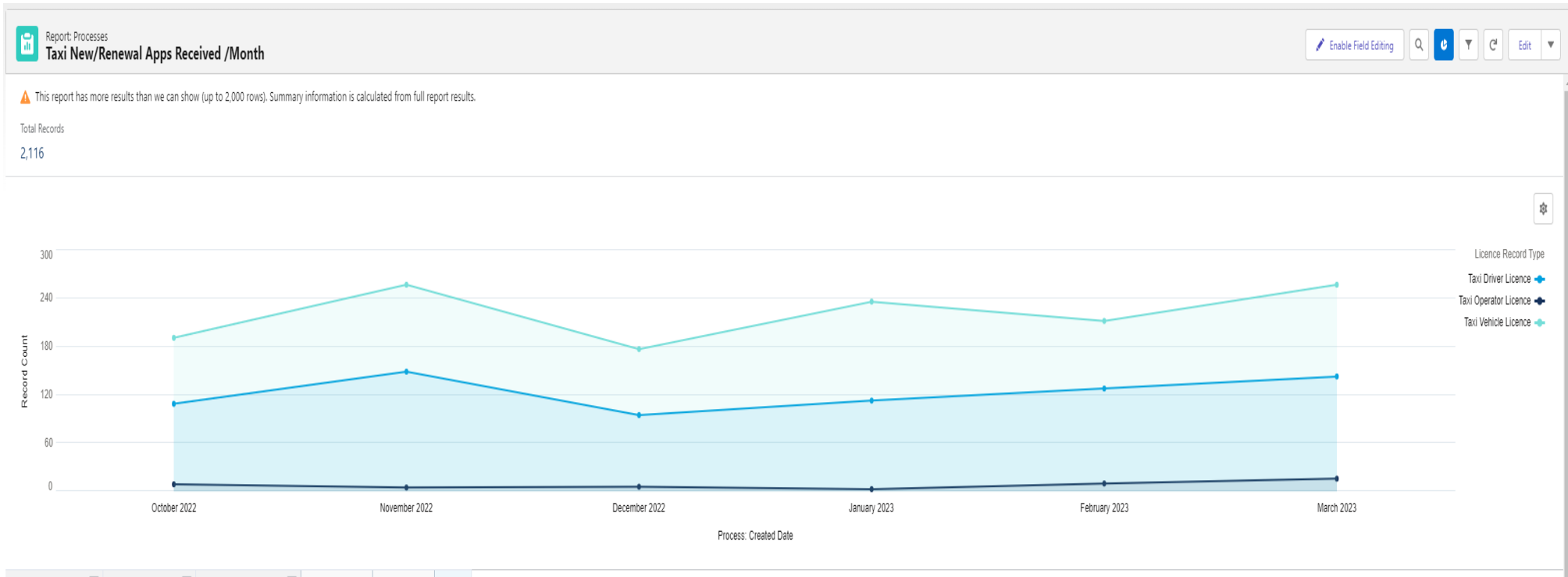


Fig 2 – application outcomes by month (granted, rejected, refused, withdrawn, other)

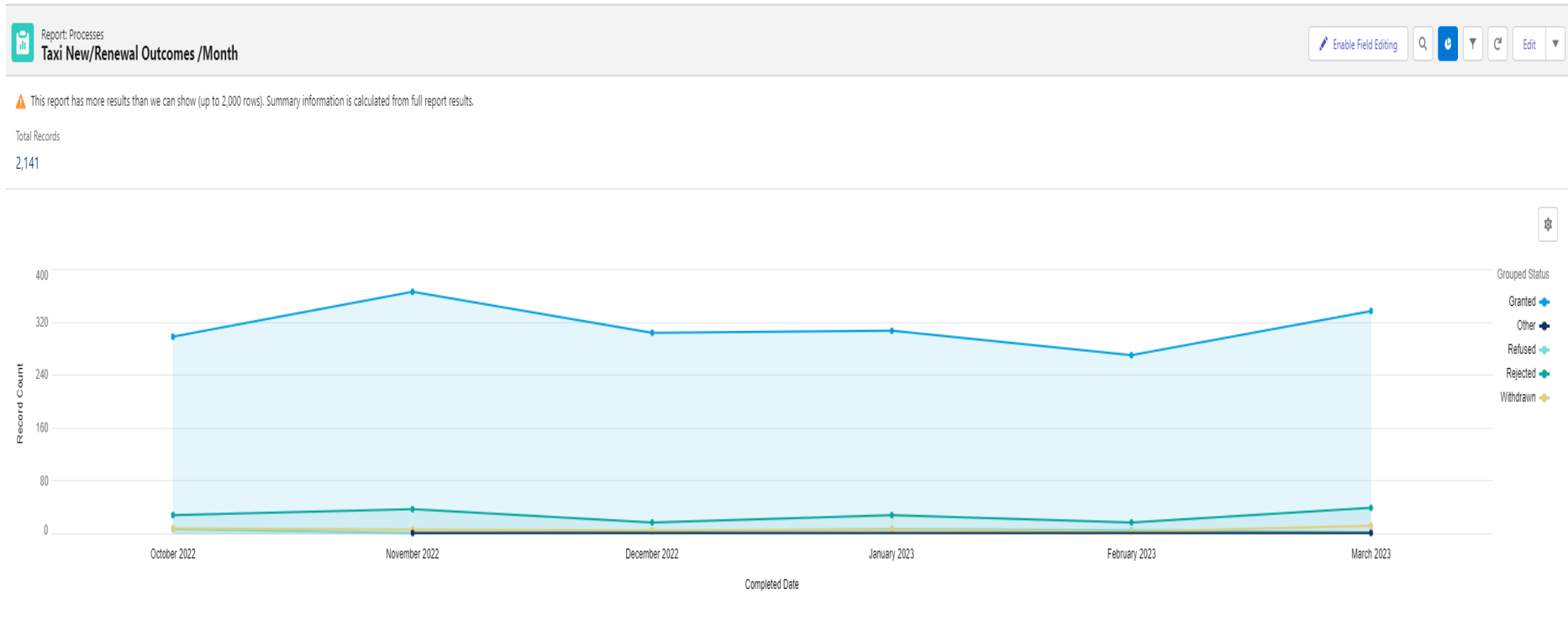
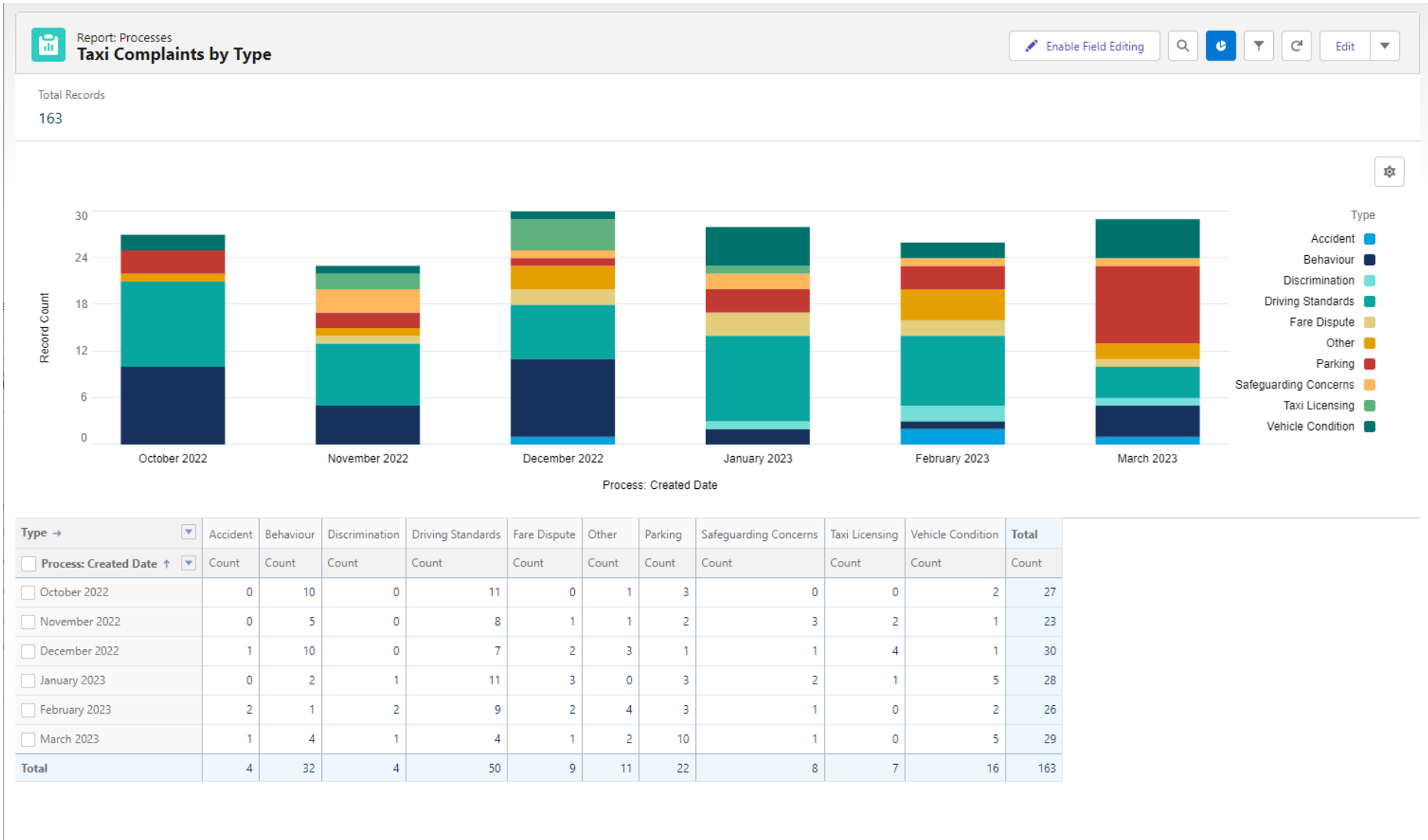


Fig 3- complaints by Type



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Report to Licensing (Regulatory) Committee

Date:	14 th June 2023
Title:	Buckinghamshire Council draft Scrap Metal Licensing Policy
Cabinet Member(s):	Cllr Mark Winn, Cabinet Member for Homelessness & Regulatory Services
Contact officer:	Catriona Crelling, Senior Licensing Officer
Ward(s) affected:	none specific
Recommendations:	That the draft Scrap Metal Licensing Policy set out at Appendix 1 is, subject to any recommended amendments, approved for consultation with relevant stakeholders.
Reason for decision:	The adoption of a policy supports the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

1. Background

- 1.1 In accordance with the Scrap Metal Dealers Act 2013 ("SMDA"), Buckinghamshire Council, in its role as Licensing Authority, is responsible for licensing scrap metal dealers as defined within the Act.
- 1.2 Determination of applications and fee setting in relation to scrap metal licences is an Executive function of the Council, with the power to grant licences and take enforcement under the SMDA delegated to officers as detailed under the Council's Scheme of Delegations.
- 1.3 There is currently no scrap metal licensing policy covering the Buckinghamshire Council area. Whilst there is no statutory requirement for a policy under the legislation, it is considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to scrap metal licensing.

The adoption of a policy supports the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

- 1.4 In November 2022, the Local Government Association published a briefing document setting out recommendations for good practice for councils in relation to scrap metal licensing. This includes carrying out compliance visits, partnership working with other agencies and intelligence sharing. The draft policy gives the Council an opportunity to set out how it will incorporate these recommendations into day to day working practices.
- 1.5 The draft Scrap Metal Licensing Policy ("the Policy") also provides guidance on the application processes, a brief overview of relevant legislation and links to Government guidance on the SMDA.
- 1.6 The SMDA makes it clear that the Council must not issue or renew a licence unless they are satisfied that an applicant is a suitable person to carry on a business as a scrap metal dealer. The Policy provides an opportunity to outline matters which the Council will take into consideration when deciding if someone is suitable to hold a licence.

2. Main content of report

- 2.1 The Licensing Authority is required to consider and determine applications for licenses relating to scrap metal in line with the relevant legislation:
 - The Scrap Metal Dealers Act 2013
 - The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013
 - The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

This legislation and its associated regulations repealed the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of the Vehicles (Crime) Act 2001 relating to Motor Salvage operators. The SMDA created a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries which it was hoped would better reflect the modern scrap metal industry.

- 2.2 Prior to the formation of Buckinghamshire Council in April 2020, scrap metal licensing was dealt with differently in each legacy district council area, using different application forms, processes and fee levels. Since becoming a unitary authority, fee levels have been harmonised and the licensing team have been working to consolidate records and develop working practices that are consistent

across the new Council area. This has included finding new ways to work collaboratively with other departments such as planning, and with partners, such as Thames Valley Police, Buckinghamshire Fire and Rescue Service and the Environment Agency, in order to carry out more effective compliance checks and intelligence gathering.

- 2.3 The SMDA sets out that all scrap metal dealers must obtain a licence from the local authority in order to carry on their business. It is an offence to carry on a business as a scrap metal dealer without first obtaining the appropriate licence. The offence is punishable on summary conviction with an unlimited fine.
- 2.4 A scrap metal dealer is defined in the Act as someone carrying on a business which consists wholly or in part of buying and selling scrap metal, whether or not the metal is sold in the form in which it was bought. However, a manufacturing business that sells scrap metal created only as a by-product of the processes it uses, or because it has a surplus of materials, is not caught by this definition.
- 2.5 Under the Act, scrap metal is defined as:
- Any old, waste, or discarded metal or metallic material, and
 - any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life
- 2.6 Gold, silver, and any alloy of which 2% or more by weight is attributable to gold or silver is not considered to be 'scrap metal'. However, the definition does include platinum and a range of other rare metals that are now used in catalytic converters.
- 2.7 The definition of scrap metal focuses on the condition of the metal rather than the purpose of the sale. For example, a broken or damaged catalytic converter, that is unlikely to work without repair, is likely to meet the definition of scrap metal. Similarly, metal stolen from historic sites is likely to be presented for sale in a damaged state and therefore fall under the definition.
- 2.8 Provisions within the SMDA allow the Secretary of State by order to amend the definition of 'scrap metal'.
- 2.9 There are two types of scrap metal licence as described in the legislation and guidance. These are a site licence and a mobile collector's licence. Both licence types last for a period of three years.
- 2.10 The Council currently licences 15 scrap metal dealers, broken down into 8 site licences and 7 mobile collector licences.
- 2.11 A dealer can only hold one type of licence in any one council authority area. They cannot hold both a site and mobile collectors' licence with Buckinghamshire Council.

- 2.12 As required by the SMDA, a public register of licensed scrap metal dealers is maintained by the Environment Agency and the Council is required to provide the appropriate information on all scrap metal licences issued in our area to the Environment Agency for this purpose.
- 2.13 The draft policy outlines the requirements for displaying licences, both at sites and for mobile collectors. As part of the draft policy, in relation to collector licences, the Council proposes to provide visible identification such as a plate or disc for the vehicle being used by the dealer in order to assist in identifying that they are a licensed scrap metal dealer. This will provide reassurance to customers and an easy way for police to identify legitimate traders, as opposed to unlicensed ones.
- 2.14 The application process is set out in the draft policy, with applicants encouraged to make contact with the licensing team in advance of making an application in order to seek advice and clarification on any areas they are unsure about.
- 2.15 As part of the application, applicants (including directors, shadow directors and company secretaries and any person listed on the application form including site manager(s)) will be required to provide a basic criminal disclosure certificate no more than 1 month old at the time of application to assist in assessing their suitability.
- 2.16 The Council will require applicants to provide proof of identity documents. The Council may also require additional information such as a declaration of any convictions not showing on their criminal record check (e.g. those obtained whilst outside the UK), any pending matters of investigation, or where appropriate, a detailed site plan.
- 2.17 Under the Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulations 2022, from 4 April 2022 there has been a requirement for applicants to either confirm their tax responsibilities or complete a tax check, depending on whether they are a new applicant or applying to renew their licence. The draft policy includes links to assist scrap metal dealers in this process.
- 2.18 Regulations issued under the SMDA set out a list of relevant offences in relation to scrap metal dealers. The draft policy provides a link to these and also sets out what other factors will be taken into consideration when determining an application.
- 2.19 A risk-based approach to compliance checks and enforcement is set out in the draft policy. This will include partnership working with other agencies where possible and the sharing of intelligence relating to offences under the SMDA and unlicensed dealers.

3. Next steps and review

- 3.1 If approved by Committee, and subject to any suggested amendments, the draft Policy will undergo a six-week public consultation with all relevant stakeholders notified, including affected licence holders, Ward, Town and Parish Councillors, Community Boards, Thames Valley Police, Fire and Rescue Service and Environment Agency.
- 3.2 Following the consultation process, a further report will be presented to this Committee providing full details of any comments received and amendments to the draft policy proposed as a result.

4. Other options considered

- 4.1 The Council could choose not to have a scrap metal licensing policy as there is no statutory requirement to have one.
- 4.2 However, a policy provides an opportunity for the Council to set out its approach, providing clarity for applicants, licence holders and other affected parties.

5. Legal and financial implications

- 5.1 The legal implications are as set out in the report. The Policy ensures consistency of approach, and it is considered that the Council would be far less likely to be open to legal challenge where a policy is adopted which clearly sets out how applications will be considered, reasons for refusal and our approach to enforcement.
- 5.2 The Council has made reference to the document "[Open for business: Local Government Association \(LGA\) guidance on locally set licence fees](#)". The LGA guidance acknowledges that Councils are free to design their licensing service in a manner that best serves the needs of their community and recover the costs accordingly. The Council has also referred to the Home Office guidance "**Scrap Metal Dealers Act 2013: guidance on licence fee charges**". These outline which activities can be funded by the licence fee.
- 5.3 Fees are set on a cost recovery basis. Once this policy has been adopted a full review of scrap metal licence fees will be carried out.

6. Corporate implications

Protecting the vulnerable – No concerns identified.

Property – N/A

HR – N/A

Climate change – N/A

Sustainability – N/A

Equality – An equality impact screening assessment has been carried out which does not indicate any adverse or disproportionate effects on those with protected characteristics however the assessment will be kept under review to ensure appropriate information in this regard is available as and when required.

Data – dealing with any application for a licence will require the collection and processing of personal data. Such processing is justified by the public interest in appropriate licensing of scrap metal dealers. The Council's current licensing procedures ensure relevant personal data (including criminal conviction data) is processed in accordance with the Data Protection Act and UK GDPR requirements and this will apply to any further detailed personal data (if any) processed as a result of the proposed Policy being adopted.

Value for money – policy will be reviewed as legislative changes occur and updated accordingly, ensuring that it is fit for purpose. A formal review will be carried out at least every 5 years. All of this work will be performed by officers in-house.

7. Key documents

Scrap Metal Dealers Act 2013 (SMDA)

<https://www.legislation.gov.uk/ukpga/2013/10/enacted>

The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/2276/contents/made>

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/2258/made>

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013

<https://www.legislation.gov.uk/uksi/2013/1966/contents/made>

The Scrap Metal Dealers Act 2013: Determining suitability to hold a scrap metal dealer's licence

[statutory guidance for local authorities in England and Wales.](#)

Scrap Metal Dealer Act 2013: licence fee charges

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

Local Government Association Guidance

<https://www.local.gov.uk/publications/get-act-scrap-metal-dealers-act-2013-explained>

Government Supplementary Guidance

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance>

The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information)
Regulations 2022

<https://www.legislation.gov.uk/uksi/2022/224/contents/made>

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Draft Scrap Metal Licensing Policy

June 2023

Content

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2. Role of Buckinghamshire Council
3. Summary of Scrap Metal Dealers Act 2013 - SMDA
4. Application Process
5. Enforcement
6. Fees

Appendices

1. Relevant Legislation and guidance
2. Map of Buckinghamshire

Version No	Initial	Date	Changes Made
V1.0			

1.0 Introduction

1.1 Accessibility

We have actively considered the needs of blind and partially sighted people in accessing this document. We will make this document available in full on our website and you may download and translate it into other accessible formats. If you have other needs in this regard, please contact the licensing service on licensing@buckinghamshire.gov.uk

1.2 Buckinghamshire Council

Buckinghamshire Council came into effect on 1 April 2020, bringing together the former Buckinghamshire County Council, and the four District Councils of Aylesbury Vale, Chiltern, South Bucks and Wycombe. The county has a population of over 550,000 residents and includes the towns of Buckingham, Winslow, Aylesbury, Wendover, Princess Risborough, Chesham, Amersham, High Wycombe, Beaconsfield and Gerrards Cross. The county has a significant amount of rural space with over a quarter of the county within the Chilterns Area of Outstanding Beauty and a further third is covered by the Metropolitan Green Belt.

A map showing the Council's area can be attached as Appendix 2.

A search can be carried out to see if an address or particular scrap metal site falls within this area through the local authority finder <https://www.gov.uk/find-local-council>

This policy has been written taking into consideration the following 4 key priorities identified in the [Buckinghamshire Council Corporate Plan 2020 to 2025](#):

- strengthening our communities
- improving our environment
- protecting the vulnerable
- increasing prosperity

Licensing has a crucial role to play in achieving these goals, through the formulation of policy, decision-making, promotion of best practice and enforcement activities.

1.3 About this Policy

This is Buckinghamshire Council's first published scrap metal licensing policy statement, "Policy". The Policy replaces any scrap metal licensing policies adopted by the previous District Councils of Aylesbury Vale, Chiltern, South Bucks and Wycombe.

Whilst there is no legal requirement for the Council to have a Policy relating to scrap metal licensing, a policy benefits all interested parties, providing a clear and consistent framework for the Council's approach to scrap metal licensing.

The Policy sets out how Buckinghamshire Council will work to ensure that there is a level playing field for scrap metal dealers operating in the Council area, ensuring that persons operating these types of businesses are compliant with legislation.

In preparing this new Policy, Buckinghamshire Council has taken into account the latest supplementary guidance produced by government, Local Government Association examples of best practice and information provided by organisations such as the British Metals Recycling Association.

The Council has consulted widely in the formulation of this Policy, including the following:

- Licensees holding a current Scrap Metal Site or Collectors licence
- Buckinghamshire Council's Licensing Committee
- Environment Agency
- Waste and Street Scene Services
- Ward Councillors
- Town Councils and Parish Councils
- Cabinet Member for Regulatory Services
- Thames Valley Police
- Local residents and businesses
- Buckinghamshire and Surrey Trading Standards
- British Transport Police
- Buckinghamshire Fire and Rescue Service
- Trade Associations such as British Metals Recycling Association, Vehicle Recyclers Association, British Vehicle Salvage Federation
- Other stakeholders such as National Infrastructure Crime Reduction Partnership

To ensure that the policy remains fit for purpose, it will be reviewed as legislative changes occur and updated accordingly, with a formal review being carried out at least every 5 years. We may make minor amendments to this policy, with the agreement of the Chairman of the Licensing Committee, Cabinet Member for Regulatory Services and the Head of Service for licensing.

1.4 Legislation and Guidance

Appendix 1 contains a list of the legislation, regulations and guidance relevant to applicants, licence holders and officers working within scrap metal licensing.

2.0 Role of the Council in the licensing of Scrap Metal Dealers

When the Scrap Metal Dealers Act 2013 (SMDA) commenced in October 2013, it repealed the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of the Vehicles (Crime) Act 2001 relating to Motor Salvage operators. The SMDA created a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries which would better reflect the modern scrap metal industry.

The SMDA aims to raise standards across the scrap metal industry by:

- Requiring dealers to keep detailed and accurate records of transactions.
- Requiring dealers to verify the identity of those selling metal to them.
- Prohibiting making of cash payments for scrap metal

The SMDA identifies local authorities, or councils, as the principal regulator, giving them the power to better regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants, and a power to revoke licences if a dealer becomes 'unsuitable'.

Decisions, including the setting of fees and the power to determine applications is an Executive function of the Council. The power to grant licences and take enforcement under the SMDA is duly delegated to officers as detailed under the Council's Scheme of Delegations.

3.0 Scrap Metal Dealers Act 2013 (SMDA)

The SMDA can be viewed in full, including explanatory notes here:

<https://www.legislation.gov.uk/ukpga/2013/10/enacted>

As set out in the SMDA, all scrap metal dealers must obtain a licence from the local authority in order to carry on their business. It is an offence to carry on a business as a scrap metal dealer without first obtaining the appropriate licence. The offence is punishable on summary conviction with an unlimited fine in the Magistrates Court.

3.1 Scrap Metal Dealer

A dealer is defined as:

- (a) someone carrying on a business which consists wholly or in part of buying and selling scrap metal, whether or not the metal is sold in the form in which it is bought or
- (b) who carries on business as a motor salvage operator (so far as that does not fall in paragraph a)

However, a manufacturing business that sells scrap metal created only as a by-product of the processes it uses, or because it has a surplus of materials, is not caught by this definition.

3.2 Scrap metal

Under the SMDA, scrap metal includes:

- any old, waste or discarded metal or metallic material, and
- any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

Gold, silver, and any alloy of which 2% or more by weight is attributable to gold or silver is not considered to be 'scrap metal'. However, the definition does include platinum and a range of other rare metals that are now being used in catalytic converters. For this reason, catalytic converters are often targeted by thieves as they can be quickly removed from parked vehicles. Thieves may then attempt to sell stolen converters via scrapyards, online or ship them abroad. Importantly, the definition focuses on the condition of the metal rather than the purpose of the sale. For example, a broken or damaged catalytic converter, which is unlikely to work without repair, is likely to meet the definition of scrap metal. Similarly metal stolen from historic sites is likely to be presented for sale in a damaged state and therefore fall under the definition. Provisions within the SMDA allow the Secretary of State by order to amend the definition of 'scrap metal'.

3.3 Types of licence

The Government's supplementary guidance on the SMDA can be found here:

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance>

There are two types of licence. Both last for a period of three years:

Site licence

The operator of any site in the District whose operations may include the buying and/or selling of scrap metal should carefully consider whether they require a site licence under the SMDA.

A site is defined as any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there). This includes motor salvage operations which themselves undertake the following:

- Part or whole recovery of salvageable parts for re sale, and or for sale as vehicle for scrap
- Wholly or mainly buying written off vehicles and then repairing and selling them
- Wholly or mainly buying or selling motor vehicles for the purpose of salvaging parts from them or repairing them and selling them.

Skip hire companies may require a site licence depending on the circumstances. A company engaged in the buying or selling of scrap metal is likely to require a licence from the Council, unless the activity is considered a minimal or minor part of the business.

It is important to note that any person, agent, broker or trader that buys or sells metal on paper /online without operating a physical scrap metal site is carrying on business as a scrap metal

dealer and will require a licence. This person would need a site licence granted by Buckinghamshire Council in line with the requirements of the SMDA if the premises from which they trade is based in the Council's area.

Buckinghamshire Council is responsible for granting licences to any site located within the Council's boundaries. All of the sites within the Council's area from which the licence holder carries on the business as a scrap metal dealer must be identified. A site manager must be named for each site. A site licence holder can transport scrap metal from third party businesses by arrangement from any other local council area provided it is in the course of the business from that site but cannot engage in the regular door to door collections of a licensed collector.

Collectors' licence –

A collector is defined as a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste metal including old, broken, worn out or defaced articles by means of door-to-door collections. Scavenging for metal can be classed as making door to door collections

A Buckinghamshire Council issued collector's licence allows the licensee to only operate as a mobile collector within the Council's boundaries. It does not allow the collector to operate in any other council areas, and a separate licence must be obtained from each council area the collector wishes to operate in. The licence does not authorise the licensee to operate a site. There is no restriction regarding the location to where the collector can transport and sell scrap metal.

A mobile collector cannot store scrap metal at a premises. However, in the course of a collection, it is common practice for collectors to wait for their vehicle to be at capacity before unloading it at a scrap metal dealer's site. This Council does not consider the storage of scrap metal on the collector's vehicle to render the premises the vehicle is stored at as a site, providing the vehicle is not unloaded.

Those transporting metal to a scrap metal site for profit are required to be registered as a 'waste carrier'. Waste carriers must ensure that the waste goes to a properly licensed or exempt site; they must complete a waste transfer note which must include a description of the waste and be signed by the carrier and the person to whom the waste is given or sold. Details of licensed sites can be checked on the Environment Agencies public register.

A dealer can only hold one type of licence in any one council authority area. They cannot hold both a site and mobile collectors' licence with Buckinghamshire Council.

Either type of licence, can be issued to an individual, a partnership or a company.

3.4 Licence Display

A scrap metal dealer who holds a site licence must display a copy at each site identified on the licence. A dealer who holds a collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so it can be easily read by a person outside the vehicle. The Council will provide a visible identification plate or disc that can be placed on licence holders' collection vehicles to help residents to easily identify licensed

scrap metal dealers.

3.5 Powers to make changes to a licence

Where an applicant or any site manager has been convicted of a relevant offence, and the Council determines to grant a licence, the Council may use its powers under the SMDA to include the following conditions on a licence:

- that the dealer must not receive scrap metal except between 09.00 and 17.00 on any day;
- that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with time when it is received.

3.6 Public Register

As required by the SMDA, a [register of licences](#) issued under the SMDA is maintained by the Environment Agency in England. The Council will provide the appropriate information on all scrap metal licences issued in the district to the Environment Agency for this purpose. The register is openly accessible to the public and includes the name of the authority which issued the licence; the name of the licence holder; any trading name; the type of licence; the site(s) covered by the licence and expiry date of the licence.

4.0 Application Process

4.1 Advice for Applicants

New applicants are advised to contact the Council's Commercial Licensing Team prior to making their application. This allows the officers to provide advice, as well as clarifying any areas of uncertainty. The team can be contacted on licensing@buckinghamshire.gov.uk

Applicants are advised to ensure that other legal requirements are in place. Scrap Metal Dealers may require [planning permission](#) to operate from a site and are required to have [permits or exemptions](#) from the Environment Agency to operate a scrap metal site under the Environmental Protection Act.

Those applying to renew their licence are advised to do so in a timely manner. Provided that a valid application is received prior to the expiry date of the licence, the licence holder may continue to trade until their application has been determined.

Where a renewal application is received after the expiry date of the previous licence, save in exceptional circumstances, it will be treated as a new application.

4.2 How to make an application

For both types of licence, applications must be made on the Council's prescribed application forms which are published on the Council's website here:

<https://www.buckinghamshire.gov.uk/business/business-licences-and-permits/scrap-metal-licences/apply-for-a-scrap-metal-dealer-licence/>

Applicants are encouraged to submit applications, including accompanying documents, electronically by email to the licensing team at licensing@buckinghamshire.gov.uk or by online forms where these are available. The Council will also accept applications via post to Licensing Services, The Gateway, Gatehouse Road, Aylesbury, Bucks HP19 8FF

Applicants will also be asked to provide the necessary supporting paperwork that they are required to have as set out in legislation and guidance relevant to the type of licence they have applied for. This will include details of bank accounts that are used.

An application will not be considered valid until a completed application form has been received along with the correct application fee.

Applicants, including directors, shadow directors and company secretaries and any person listed on the application form including site manager(s) need to provide a [Basic Disclosure Certificate](#) no more than 1 month old at the time of application to assist in assessing their suitability.

All applicants will be required to provide photographic proof of identity and proof of current address. Applicants will also be required to declare any convictions not showing on their criminal record check (e.g. those obtained whilst outside the UK) as well as any pending matters of investigation. The Council may also require other information in addition where it is considered relevant.

In appropriate cases a site plan and layout of sufficient detail will also be required as part of an application

Tax Checks

From 4 April 2022 applicants renewing a licence must complete a tax check to confirm they are registered for tax, before applying to renew a site licence or a mobile collector's licence. An individual, company or partnership must complete a tax check when:

- renewing a licence
- applying for the same type of licence you previously held, that ceased to be valid less than a year ago
- applying for the same type of licence you already hold with another licensing authority (for example, a mobile collector's licence)

Applicants who are applying for a licence for the first time, or who have already held a licence but that has not been valid for a year or more will not need to complete a tax check and should instead follow the 'confirm your tax responsibilities' guidance.

The processes for completing tax checks and confirmation of tax responsibilities are set out in the Government guidance here:

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance/scrap-metal-dealers-act-2013-supplementary-guidance-accessible#the-application-process>

Applications to vary a licence

Licence holders must make an application to the Council for the variation of the licence in the event of any changes to the licensee's name and/or, if the licence is a site licence, the sites in the Council's area at which the licensee is authorised to carry on business, or the name of the site manager of any site.

Failure to apply for such a variation is an offence, and if convicted, the licensee may receive a fine not exceeding £1,000 (level 3 on the standard scale).

4.3 Determining an Application

The SMDA is clear that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regards to any relevant information.

Regulations issued under the SMDA set out a list of relevant offences and enforcement action, this can be viewed here:

<https://www.legislation.gov.uk/ukxi/2013/2258/made>

The Council may take into consideration other offences if they are considered relevant.

Factors when considering the applicants suitability can include but are not restricted to:

- The applicant or site manager has been convicted of a relevant offence, or subject to any relevant enforcement action.
- The applicant has previously been refused a scrap metal dealer's licence, or an application to renew a licence has been refused.
- The applicant has previously been refused a relevant environmental permit or registration.
- They had previously held a scrap metal dealer's licence that has been revoked.
- Previous compliance history.

- Failure to disclose or provide relevant information.
- An inability to understand legal obligations.
- An inability to keep records in a legible format.
- An applicant's overall behaviour may also be considered relevant. The Council may request any other information that it deems necessary and reasonable to request.

Each application will be considered and determined on its own merits and on a case by case basis, having taken into consideration this Policy and any statutory requirements and other relevant information.

In accordance with the Council's scheme of delegations, decisions relating to scrap metal licensing are made by authorised officers with sufficient training to make those decisions.

4.4 Right to be heard

Officers may consider it necessary to interview an applicant prior to making a decision, depending on the information provided on the application. For example, this might be due to an applicant having criminal convictions which may be considered relevant to their application, or a history of poor compliance.

If officers are considering refusing an application, the applicant will first be notified in writing. The applicant will be invited to make a written representation for consideration before a final decision is made. Applicants will usually be offered a minimum of 14 days to make representation. Should an applicant not submit representation within the specified timeframe, the Council will determine the application based on the available information. Where a request is made for further time to make representations the length of time will be agreed with the officer. If the applicant fails to provide the representations within the additional period agreed the council may refuse the application.

A final decision will be provided to the applicant in writing, setting out reasons for the decision, details of the relevant appeal process and the date on which any revocation or variation, as appropriate will take effect.

5.0 Enforcement

5.1 The Council's approach to enforcement

All enforcement against licensed and unlicensed operators will be carried out in accordance with the Council's enforcement policy https://buckinghamshire-gov-uk.s3.amazonaws.com/documents/regulatory-services-enforcement-policy_1.pdf

Officers will seek to assist businesses and others in meeting their legal obligations through provision of reasonable assistance and advice, aiming to be clear, open and helpful in their

approach to enforcement. However, officers will take robust action against those who knowingly contravene the law or act irresponsibly.

5.2 Partnership working

Enforcement may be carried out in conjunction with other agencies or Council departments such as Thames Valley Police, British Transport Police, Environment Agency, Planning Department or Trading Standards. Where appropriate, officers from neighbouring authorities may also be authorised to carry out enforcement within the Buckinghamshire Council area and officers from the Council's Licensing Service may be likewise authorised in other areas.

5.3. Compliance checks and enforcement action

Any enforcement action carried out will be proportionate and reasonable and will aim to treat all licensees fairly and consistently.

Officers will take a risk-based approach to compliance checks, based on how well a scrap metal dealer demonstrates that they are meeting the requirements of their licence.

Following the grant of a licence, the Council will carry out compliance checks which may consist of an unannounced site visit or request to view records. If the licence holder is found to be compliant and officers have no concerns, they will aim to carry out further checks once more within the three-year period of the licence.

However, if initial compliance checks identify issues of concern, the licence holder will be given an action plan and clear advice on how to improve. In these circumstances the licence holder will be subject to annual compliance checks to ensure issues are addressed and advice is adhered to.

If compliance checks identify significant concerns – such as having stolen metal on site, not displaying a licence, disregarding advice, a licence holder will be considered high risk and appropriate enforcement action will be considered.

All records should be made available for inspection by an authorised officer at any reasonable time.

The Council expects records kept in accordance with the SMDA to be capable of being produced in the English language either on paper or electronically. Where a required record is not made in the English language, the licence holder may retain it in that alternate language. However, the licence holder will be expected to be able to provide a translation on request of a constable or authorised council officer.

Licensed collectors are encouraged to notify the Council of any change of vehicle(s) so that the Council can issue new identification plates or discs in respect of the new vehicle(s). The licence holder will be expected to return identification plates or discs to the Council for vehicles no longer used by the collector.

Interviews, whether informal or carried out under caution will normally be recorded to ensure an accurate record of the interview is kept.

Complaints received and warnings issued in relation to licence holders will generally be held on file and taken into consideration during the period of any licence or application or where there is a break in licence history.

5.4 Information sharing

Where applicants are known to have operated, resided or been licensed by another local authority, officers may request details of any licence and compliance history to be taken into consideration as part of the application process.

Section 6 of the SMDA requires the Council to supply any information they hold about a licence holder, relating to a scrap metal licence, to any other local authority in England and Wales, the Environment Agency, the Natural Resources Body for Wales and to Police Forces.

Officers may share information with other agencies or Council departments to assist with determining applications, ensuring compliance and identifying unlicensed scrap metal dealers.

5.5 Other compliance requirements:

Applicants and licence holders are advised to consult the Government guidance which clearly sets out requirements for:

- **record keeping** – the SMDA requires scrap metal dealers to keep records of metal received and disposed of as well as details of the person it was received from, documents used to verify the name and address of the supplier and the payment. Records must be recorded in a manner which allows the information and scrap metal to be easily identified by reference to each other and must be kept for three years. The records should contain sufficient identification detail to ensure there is no intention to obscure the identity and type of metal being processed.
- **verifying a person's identification prior to receiving scrap metal from them** - Scrap metal dealers, including collectors, must not receive scrap metal from a person without verifying their full name and address by reference to documents or other information which are set out in The Scrap Metal Dealers Act (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013 at:

<http://www.legislation.gov.uk/uksi/2013/2276/contents/made>.

Where a collector is picking up scrap metal that has been left on the roadside and is therefore unable to verify the suppliers name and address, they must record the description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features and the date and time of its receipt.

- **acceptable payment methods** – cash cannot be used by any scrap metal dealer to buy scrap metal. Only payment by a non-transferable cheque or an electronic transfer of funds will be acceptable. This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer.
- **guidance for motor salvage operators** – this sets out the conditions under which a vehicle may be considered scrap metal as opposed to a viable vehicle which can be paid for with cash. There needs to be a genuine potential for repair and re-sale in order for cash to be used to purchase a vehicle. If a certificate of destruction is issued, the car is considered to be scrap and a buyer must not pay cash for it.

The supplementary guidance can be viewed in full here:

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance>

5.6 Unlicensed sites:

If the Council is satisfied that a premises is being used by a scrap metal dealer in the course of their business without there being an appropriate site licence in place, they may issue a closure notice. Provisions are made for this in schedule 2 of the SMDA which can be viewed here:

<https://www.legislation.gov.uk/ukpga/2013/10/schedule/2/enacted>

A Closure Notice may be cancelled by a Cancellation Notice issued by the licensing authority. This would take effect when given to any person who is in receipt of a Closure Notice.

Following the service of a closure notice, if the premises continues to be used as part of the business or there is reasonable likelihood that it will be in the future, the Council may apply for the magistrates to make a Closure Order requiring the premises to be closed immediately and remain closed or for the use of the premises to be discontinued immediately.

Closure orders can be terminated by a certificate made by the Council where they are satisfied that the order is no longer needed. Anyone who has been given a closure order can make a complaint to a justice of the peace for an order to discharge the closure order. The court must be satisfied there is no longer a need for the closure order in order to make a discharge order.

Further guidance on closure notices and orders can be found in the supplementary guidance here:

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance/scrap-metal-dealers-act-2013-supplementary-guidance-accessible#right-to-enter-and-inspect-sites>

5.7 Appeals

As set out in the SMDA and Government guidance, appeals against a decision to refuse or

impose conditions on an application can be made to the magistrates' court. The applicant has 21 days from the day on which they were given notice of the decision in which to appeal. The magistrates court then has the power to confirm, vary or reverse the Council's decision and issue any directions it considers appropriate having regard to the Act.

Appeals relating to Closure Notices, Closure Orders or discharge orders must be made to the Crown Court within 21 days of receipt of the notice or order.

6.0 Fees

6.1 Statutory Provisions to recover fees

Para 6(1) of the SMDA permits local authorities to charge a licence fee at cost recovery.

6.2 Current fee level

A list setting out the current scrap metal licensing fees can be found on the Council website here:

<https://www.buckinghamshire.gov.uk/business/business-licences-and-permits/scrap-metal-licences/apply-for-a-scrap-metal-dealer-licence/>

6.3 The Council's approach to fee setting

The Council has made reference to the document "[Open for business: Local Government Association \(LGA\) guidance on locally set licence fees](#)". The LGA guidance acknowledges that Councils are free to design their licensing service in a manner that best serves the needs of their community and recover the costs accordingly.

The Council has also referred to the Home Office guidance "**Scrap Metal Dealers Act 2013: guidance on licence fee charges**". These outline which activities can be funded by the licence fee.

Buckinghamshire Council will take a reasonable and proportionate approach aiming to set a fee level that is sufficient to cover the cost, but not make a surplus, whilst providing value for money for the applicant.

6.4 Review of Fees

Fees are subject to a full review every 3 years

Appendix 1 Relevant Legislation and Regulations

The list below sets out the main pieces of legislation, regulations and guidance documents that are used by Licensing Services in relation to scrap metal dealers:

Scrap Metal Dealers Act 2013 (SMDA)

<https://www.legislation.gov.uk/ukpga/2013/10/enacted>

The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/2276/contents/made>

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/2258/made>

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013

<https://www.legislation.gov.uk/uksi/2013/1966/contents/made>

The Scrap Metal Dealers Act 2013: Determining suitability to hold a scrap metal dealer's licence

[statutory guidance for local authorities in England and Wales.](#)

Scrap Metal Dealer Act 2013: licence fee charges

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

Local Government Association Guidance

<https://www.local.gov.uk/publications/get-act-scrap-metal-dealers-act-2013-explained>

Government Supplementary Guidance

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance>

The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulations 2022

<https://www.legislation.gov.uk/uksi/2022/224/contents/made>

Appendix 2 Map of Buckinghamshire Council area



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