



Licensing Committee agenda

Date: Wednesday 1 July 2020

Time: 6.30 pm

Venue: Via Video Conference

Membership:

D Barnes, M Hussain JP, C Jackson, S Lambert, J Lowen-Cooper, N Marshall, I McEnnis, S Morgan, G Powell, J Read, S Renshell, J Rush, N Southworth, Sir B Stanier Bt and H Wallace

Webcasting notice

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If you have any queries regarding this, please contact the monitoring officer at monitoringofficer@buckinghamshire.gov.uk.

Agenda Item	Page No
1 Election of Chairman To elect the Chairman of the Licensing Committee for the ensuing year.	
2 Appointment of Vice-Chairman To appoint the Vice-Chairman of the Licensing Committee for the ensuing year.	
3 Apologies for absence	

- | | | |
|----------|--|---------------|
| 4 | Declarations of interest | |
| 5 | Virtual Licensing Committee Procedural Rules
To note the virtual committee procedural rules which will apply whilst meetings are held virtually. | 3 - 8 |
| 6 | Impact of Covid-19 on Licensing Services - update report | 9 - 18 |

Part A -Statutory Functions

None.

Part B - Other Licensing Functions

- | | | |
|----------|---|----------------|
| 7 | Progress update on the development of the Buckinghamshire Council Taxi and Private Hire Licensing Policy | 19 - 24 |
| 8 | Update on the unmet demand survey (Aylesbury area) | 25 - 28 |
| 9 | Date of Next Meeting
Wednesday 9 September 2020 at 6.30 p.m. | |

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Elly Cook / Leslie Aston on 01895 837319 / 01895 837227, email democracy@buckinghamshire.gov.uk.

Licensing Committee Virtual Procedural Rules

Introduction

The Secretary of State for Housing, Communities and Local Government made [Regulations](#) (The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020) (“the 2020 Regulations”) to ensure local authorities can conduct business during the current public health emergency and this legislation was passed on 4 April 2020. The 2020 Regulations will apply to local authority meetings (full council, executive, joint committee, committee or sub-committee) held before 7 May 2021 from 4 April 2020.

Councils can make standing orders in respect of virtual meetings, and will not be constrained by any existing restrictions.

Licensing Committee

This meeting will be attended by Licensing Committee members, officers and Buckinghamshire Council members not appointed to the Committee (in part) and may be observed by other interested members of the public and the press via the webcast.

Prior to the meeting

Access to Information

The Council can hold and alter the frequency and occurrence of meetings without requirement for further notice.

The 2020 Regulations make provision for local authority members and officers, and the public, to have access to documents without attending council buildings and it will be sufficient for local authorities to publish the documents on their website. This includes notices, agendas, reports, background papers and minutes. The Proper Officer will give the requisite notice to the public of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the website.

The obligation under the old Regulations (Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012) to supply copies of such documents in response to requests made by members of the public and on behalf of newspapers is disapplied.

The requirement in England for 5 clear days' notice to be given of principal council meetings, including annual meetings, still applies however notice can now be given on the council's website.

Time and Place of Meetings

Meetings can be held remotely, including by (but not limited to) telephone conferencing, video conferencing, live webcast, and live interactive streaming even if particular members of the public cannot access them. This Council will use Microsoft Teams to hold virtual

meetings and will invite external participants (including public speakers where necessary) to virtual meetings, if any, via email or telephone. Virtual meetings will be webcast via a link published on the meeting webpage.

Public Speaking

There may on occasion be items on the agenda where public speaking would be permitted at the Chairman's discretion. Should any member of the public wish to register an interest in speaking at a Licensing Committee on a particular agenda item they should contact the Democratic Services Officer (DSO) in advance of the meeting. Following liaison with the Chairman the DSO would contact the public speakers and make the necessary arrangements.

During the meeting

Quorum for Meetings

The rules for quorum will still apply (4 Councillors for the Licensing Committee). The constitution states that if a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chairman, the business of the meeting will be adjourned. The Chairman may allow for flexibility around the start time of the meeting where there are any technical issues.

In the event of any apparent failure of the technology the Chairman should immediately determine if the meeting is still quorate. The Chairman could adjourn for 10-15 minutes to allow the connection to be re-established. If an individual Member's remote participation fails the Chairman may call a short adjournment of up to 5 minutes. However if the remote connection cannot be restored the meeting should continue providing it is quorate. The Member will have been deemed to have left the meeting at the point of failure. In relation to this meeting if the connection cannot be restored within a reasonable time the meeting can proceed but any Member who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.

Attendance at meetings and webcasting

A roll call or introductions will be made at the start of the meeting to record those present. The Chairman will confirm at the outset that they can see and hear all participating members and any member participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants. There is no requirement for councillors to sign their names on an attendance sheet when attending a meeting electronically. The Democratic Services Officer ("DSO") will maintain a list of attendance throughout the meeting.

To be classified as a 'member in attendance' and attend a meeting remotely, the following conditions must be satisfied;

- (a) councillors must be able to hear and (where practicable) see; and be heard and (where practicable) be seen by, other councillors in attendance at the meeting.
- b). All other members of the public must as a minimum be able to hear (but if practicable be able to view as well)

In practice this means that if councillors can be heard and hear each other and other members of the public not speaking can hear, this would fulfil the requirements of holding a

virtual meeting.

Members of the press and public may only be excluded from a meeting in accordance with the Access to Information Rules and if they are causing a disturbance (see below).

The 2020 Regulations state that meetings being open to the public include access by remote means. Such access includes (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person. For clarity, a meeting recorded and then posted online after the event would not satisfy this requirement.

The people on the Teams call who are present throughout the meeting are the Committee Members 'round the table' and any officer supporting the meeting. The public gallery, where Members can sit and observe the meeting alongside members of the public, is the webcast version. It is important to keep numbers in the meeting (except for those allowed to be present as Members) to a minimum to enable the proper flow of the virtual meeting.

Conflicts of interest

Where a councillor has a conflict of interest during a meeting they need to declare their interest at the start of the meeting or when the interest becomes apparent. If the interest is 'personal' having declared a personal interest the councillor may continue to speak and vote on the item of business concerned. If the councillor has a prejudicial interest they will need to declare the existence and nature of their interest and withdraw from the virtual meeting by muting the microphone and only returning to the meeting once the chairman has invited them back in.

Minutes of meetings

The Minutes of meetings will be signed and kept by the Chairman until government guidance allows councillors and officers to return the signed copy to the office.

Voting

The requirements for voting at a virtual meeting will be the same as those for physical meetings. Any amendments will need to be moved and seconded and the Chairman will ask the meeting if there is any dissent to the motion. For items that require a decision, the Chairman will conduct the vote by reading out the names of voting members (like a recorded vote). Each voting member, when asked by the Chairman, will state if they are for, against or abstain. Voting will be recorded by the DSO. The DSO can then read out the total numbers of members voting in favour, against and abstaining. If Members are not present for the whole agenda item they cannot vote.

Questions

Questions will be asked in the normal way by Committee Members as set out in the Constitution.

When can the Chairman be interrupted?

There are circumstances allowed for in the Constitution where the Chairman can be interrupted such as:-

- Technology is not working effectively
- Officer needs to provide advice
- Point of order or personal explanation

or any other situation which the Constitution or Chairman allows.

Disturbance during proceedings

The Constitution states that if anyone interrupts proceedings, the Chairman will warn the person concerned and, if they continue to interrupt, the Chairman will order their removal from the virtual meeting room. There may be circumstances where the person needs to be removed immediately, for example, if they are being inappropriate, and the Chairman can do this by muting their microphone. If there is a general disturbance, making orderly business impossible, the Chairman may adjourn the meeting for as long as they consider necessary.

Adjournments

People will remain on the call with microphones muted and cameras off until the meeting starts again. The Chairman may also want to consider having a comfort (screen) break for longer meetings. If there is a problem with the technology, the Chairman should adjourn the meeting. However, it does not stop a meeting going ahead provided it is still quorate because a person does not have access to the required technology in the first place. If technology fails for a wholly remote meeting, and the meeting is no longer open to the public, any decisions made could be challenged as unlawful, which renders the whole meeting incapable of proceeding. Therefore, the Chairman should adjourn until the remote meeting can be restored within a reasonable period, or at a time and date fixed by the Chairman or until the next ordinary meeting

The Council will try and achieve the best possible outcome.

Confidential/exempt items

There are times when council meetings are not open to the public, when confidential, or “exempt” issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Each Member in remote attendance must ensure and verbally declare that there are no other persons present with them who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.

Where a Member can demonstrate a “need to know” they will be invited to any discussion on exempt items remotely as set out in the Constitution. They must confirm that the venue is secure, that no member of the public has access and that no recording of the proceedings is being made.

Contacts

All enquiries relating to the Virtual Licensing Committee Meeting procedures should be directed to Democratic Services.

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Report to Licensing Committee

Date: 1st July 2020

Reference number: N/A

Title: Impact of Covid-19 on Licensing Services – update report

Relevant councillor(s): Licensing Committee, Cllr Fred Wilson, Cabinet Member for Regulatory Services.

Author and/or contact officer: Lindsey Vallis, Transition Head of Licensing, Cemeteries & Crematoria

Ward(s) affected: none specific

Recommendations: To note and comment on the content of the report.

Reason for decision: None required

Executive summary

In response to the Covid-19 situation Licensing Services have had to make a number of changes to the level of service received by businesses and individuals, including how the services are delivered and the fee level charged. This report summarises the approaches that have been taken to date and the operational and financial impacts of these changes.

Content of report

1. Buckinghamshire Council provides a range of licensing services to businesses and individuals including premises licensed for the sale of alcohol and entertainment and gambling, late night sale of hot food and drink and street traders, scrap metal operators, caravan sites, the taxi trade and people operating businesses involving animals. Many of these businesses and individuals have been, and continue to be, subject to business closure regulations as a result of the Covid 19 situation. Those that continue to operate are suffering significant business impacts and have had to make changes to the way that they operate.

1.1 Government have encouraged Councils to take a pragmatic approach to the delivery of licensing services during this period where there is the discretion to do so (Ministerial letter from Kit Malthouse MP, Minister of State for Crime and Policing, to Chairs of Licensing Committees dated 8 April 2020), whilst also recognising that licensing services are critical to supporting and facilitating key business sectors such as the food and drink industry.

1.2 The Local Government Association have produced advice for licensing authorities on managing licensing and related issues during the Covid-19 pandemic and the overarching principles within this advice have been used to underpin decision making to date. These include:

- Ensuring that there is open and honest engagement with local businesses about the challenges facing both licensed businesses and councils during the COVID-19 response.
- Being as flexible as possible while remaining mindful of the requirements and objectives of relevant legislation.
- Where possible, prioritising requests, applications or hearings that are business critical in terms of the COVID-19 response and potentially deferring those which may not need an urgent response, if there are valid reasons why they cannot feasibly go ahead.
- Planning now for how licensing can quickly scale up work that for legitimate reasons has not been able to be progressed due to COVID-19 issues.

1.3 Licensing Services across the Buckinghamshire area have been approached by licensees seeking advice and support about how they should be operating their businesses and raising concerns about the payment and collection of licence fees. In dealing with these queries and requests the Services have had to consider how the licensing regime can continue to be delivered in a supportive, appropriate and consistent manner.

2. Licensing fees

2.1 The Council has received requests from businesses which cannot currently operate asking for dispensation on licence fees in the form of refund or waive of fee. Fee changes are generally a Licensing Committee and/or Cabinet Member decision, dependent on the particular legislative framework, and are often subject to consultation.

2.2 This matter has been raised by the LGA with the Home Office and Gambling Commission who have advised that government will not be directing councils to refund licence fees and that this is a local decision. To further complicate matters the different statutory licensing regimes impact whether the Council is legally able to make a local decision to refund, waive or defer a fee. For example where fees are set

centrally such as by the Licensing Act 2003 the Council has little flexibility and there is no clear mechanism to provide refunds or part refunds (neither the Home Office or Gambling Commission are expecting councils to issue refunds for licence fees). LGA advice is that it is not clear that there are legislative provisions in place that enable councils to provide refunds to licensees that wish to retain their licences.

2.3 Where fees are set locally the Council has more discretion with regard to deferred payments and discounts, for example in relation to animal licensing fees or taxi licensing. However the level of uncertainty regarding the length of time that businesses may be impacted and how they may operate in the future makes it difficult to determine an appropriate level of discount or to make a decision to defer a payment either partially or entirely. Licence durations can range from 6 months - 5 years, dependent on the regime, and the fee charged at the point of application may have covered the cost of the administration and issue of the licence and nothing more. However within some of the regimes the licence fee may also cover the cost of ongoing activity associated with that licence, such as inspections and enforcement.

2.4 The LGA have advised that an appropriate way to manage the level of uncertainty in this area is to consider this at the point that the fees are reviewed when an income surplus could reflect a reduction in ongoing activity or enforcement. If this was the case then fees could then be adjusted downwards for future years. The majority of the service costs associated with the Licensing Service are staff resourcing costs which the Council continues to incur.

2.5 Licensing Services are following the current cross council approach that where a regular payment or fee is due but has not been paid this is not pursued at the current time. The recommencement of the collection of annual fees due will be carefully and sensitively implemented as businesses begin to reopen in line with any easing of restrictions. This approach is often not appropriate where licences are applied for or renewed on an annual basis when a fee is due at the point of application. This fee often forms part of the valid application, without which it is not valid.

3. Interventions by regime (Part A statutory functions)

3.1 Decisions on interventions implemented to date were made via the Crisis Response Management Team during the early stages of CV19 in view of the wider pressures on business. There are currently no pending decisions to be made.

3.2 Licensing Act 2003 (alcohol entertainment and late night refreshment licences)

Licensing Act Fees are set nationally and the fee forms part of a valid new application. The Council has little flexibility or discretion in this area and there is no

clear mechanism to provide refunds or part refunds of fees. The cost of administering and issuing licences needs to be covered by the licensing fee (Note: the current nationally set fee levels are not sufficient to cover this process and review has been proposed for some years).

Current adjustments to service provided	Future considerations
Deferred recovery for non-payment of annual fee	At what point should recovery of fee be instigated
Deferred suspension of licence for non-payment of annual fee	At what point should suspension of licence for non-payment of fee come into effect
Remote licensing hearings for contested applications, deferment only when absolutely necessary	

3.3 Gambling Act 2005

Gambling Act Fees are set locally (with upper limits) and differ considerably across the Council areas. The fee forms part of a valid new application and covers the administration and issue of the licence and ongoing associated activity and enforcement.

Current adjustments to service provided	Future considerations
Deferred recovery for non-payment of annual fee	At what point should recovery of fee be instigated
Deferred revocation of licence for non-payment of annual fee	At what point should revocation of licence for non-payment of fee come into effect

4. Interventions by regime (Part B other licensing functions)

4.1 Taxi Licensing

Taxi licensing fees are set locally and differ across the Buckinghamshire Council areas. Where a fee is locally set councils have more discretion to operate with flexibility. The fee covers the administration and issue of the licence and ongoing

enforcement activity. Driver licences are valid for 3 years, operators for 5 years and vehicles for 1 year.

Current adjustments to service provided	Future considerations
<p>New driver applications are not being processed as we are unable to undertake necessary verification and safeguarding checks required</p>	<p>Return to 'business as usual' must align with the Council's approach on maintaining social distancing within its buildings and on appropriately managing the health and safety risks associated with face to face contact for staff and applicants.</p>
<p>Renewal applicants are being issued with electronic licences only to be used in conjunction with their existing out of date driver badges and vehicle plates. Physical driver badges and vehicle plates have not been issued since lockdown restrictions were imposed (a small number have been processed in the Wycombe area).</p>	<p>All backlog physical elements of driver and vehicle licences must be issued as a priority as soon as staff are able to safely return to the workplace. Some aspects of this service recommenced w/c 15th June and the remaining elements will be recommenced by the w/c 6th July 2020.</p>
<p>New vehicle licence applications are not being processed in the Aylesbury area, a small number are being accepted in the Wycombe and Chiltern and South Buckinghamshire areas.</p>	<p>The in-house MOT testing centre in Aylesbury must be fully operational in order to process new vehicle applications and licensing staff must be able to carry out enhanced vehicle tests (taxi test). Work is underway to reintroduce this service from 6th July 2020.</p>
<p>Renewal vehicle MOT tests in the Aylesbury area are being carried out by private MOT test centres. Vehicles are not receiving the enhanced vehicle test (taxi test) carried out by licensing staff.</p>	<p>All vehicles that have been issued with a renewal licence during the lockdown period will need to have an enhanced vehicle test carried out when staff are able to return to the workplace. Work is underway to carry out this backlog work from the 15th June 2020.</p> <p>Work is underway to reinstate a partial service at the in-house MOT testing centre in Aylesbury to start processing renewal vehicles from the 15th June 2020.</p>

	Return to 'business as usual' must align with the Council's approach on maintaining social distancing within its buildings and on appropriately managing the health and safety risks associated with face to face contact for staff and applicants.
Voluntary vehicle suspensions are being issued where requested to reduce insurance costs for the operator	
Renewal driver applicants who are not currently working are able to delay the renewal of their current licence by up to 3 months after the date of expiry without the need to undertake a new driver assessment, English language assessment or provide a medical from their GP (this will need to be provided within 3 months of the licence being granted). NOTE: a new enhanced DBS certificate must be provided at the point of application. Drivers with limited duration licences due to immigration status must continue to apply to extend their licences in the normal manner.	At what point should the option of delayed renewal applications cease to be provided.
Mandatory safeguarding training courses for drivers has been delivered online rather than face-to-face	Would we like to retain an online offering for the future or return to an exclusively face-to-face training model
Renewal driver applicant appointments have been held remotely online	

4.2 Street Trading

Street trading consents are issued under schemes that were established under adoptive legislative controls in each Buckinghamshire Council area. The schemes are very different in nature and the number of consented street trading pitches differs considerably (market traders are managed outside of this regime). Fees are also set locally and range considerably. Chiltern and South Buckinghamshire areas do not have any consented street trading pitches. In the Aylesbury area consents were due

for renewal on the 1st April and traders on consent pitches pay in installments via a monthly direct debit. In the Wycombe area they pay an annual fee on renewal which was due in April.

Current adjustments to service provided	Future considerations
Street trading consents have been renewed (on application) in the Aylesbury and Wycombe areas but payment has been deferred at this time.	When should the deferred fee be pursued and what level of fee should be paid at this point.

4.3 Animal Licensing

Animal licensing fees are set locally and differ across the Buckinghamshire Council areas. Where a fee is locally set councils have more discretion to operate with flexibility. The fee covers the administration and issue of the licence and ongoing activity and inspections. Animal licences are issued for up to 3 years dependent on the type of activity undertaken and the level of compliance at inspection.

Current adjustments to service provided	Future considerations
<p>The regime requires that an inspection is carried out prior to the issue of a licence.</p> <p>New licences are not being issued as inspections cannot be carried out by Officers</p> <p>DEFRA have advised that existing licences due for renewal can be extended for 3 months, where it is deemed necessary, to reduce the need for inspection.</p>	<p>Return to 'business as usual' must align with the Council's approach on maintaining social distancing within it's buildings and on appropriately managing the health and safety risks associated with face to face contact for staff and applicants.</p> <p>Work is underway to risk assess the varying inspection scenarios (e.g. external or home visit) with a view to returning to BAU where possible to do. Visits are undertaken with authorised vets and therefore there is also a dependency on their return to BAU.</p>

5. Financial Impact

5.1 Currently the projected loss of income for Licensing Services during the CV19 period is £105k per month. This reflects the significant reduction in the number of

applications being received by the Council during the enforced lockdown restrictions. The breakdown of monthly forecasted loss of income across all the Licensing areas by regime is detailed below:

Licensing regime	Forecast loss of income (monthly)
Licensing Act 2003	£6000
Gambling Act 2005	£4000
Taxi Licensing	£87,000
Street Trading	£5,000
Animal Licensing	£3000
TOTAL	£105,000

5.2 As lockdown restrictions are eased an upturn in applications and associated income is expected. Whether income returns to pre-CV19 levels will be dependent on the longer term impact on businesses and individual licensees. As lockdown restrictions are lifted and the Service begins to see an upturn in activity it will be possible to better forecast the longer term financial impacts of CV19.

5.3 The shortfall of income in to the Licensing Service is reported to Finance Services monthly and is recorded as an impact on the Council as a result of the CV19 pandemic. It is not yet known whether Government will compensate councils for loss of income or costs incurred as a result of CV19.

6. Return to Business as Usual

6.1 Throughout the CV19 pandemic consideration has been given to the use of digital technology as an alternative to face to face interaction and this has been implemented wherever possible. Planning is underway to reinstate affected Licensing Services as soon as possible and to process backlog accrued. This work is being undertaken alongside the wider corporate planning on building a safe workplace environment.

6.2 Licensing Services play a key role in promoting town centre and business recovery as CV19 restrictions are eased and the Service is actively contributing to the cross-council partnership approach on supporting town centre and business recovery. Wherever possible the we will continue to work flexibly with businesses to facilitate their return to operation, providing advice and guidance and ensuring that the licensing objectives are maintained and adherence to government restrictions is promoted.

Legal and financial implications

(Information provided above).

Corporate implications

- Property – Reinstatement of affected Licensing Services must be undertaken in conjunction with the planning for building a safe workplace environment for staff returning to the workplace.
- HR - Reinstatement of affected Licensing Services must be undertaken in consideration of HR policies relating to staff returning to the workplace
- Equality (does this decision require an equality impact assessment) – N/A
- Data (does this decision require a data protection impact assessment) – N/A

Consultation and communication

Decisions on interventions implemented to date were made via the Crisis Response Management Team during the early stages of CV19 in view of the wider pressures on business. Information for applicants and licensees on changes to Services is available on the website. Regular updates are also provided to some licensees by email where appropriate to do so.

Next steps and review

Committee may wish to request a further future update on the impact of CV19 on Licensing Services

Background papers

- [LGA Note on approaches to managing licensing during the COVID-19 pandemic](#) (updated 17 April 2020)
- [Ministerial letter from Kit Malthouse MP, Minister of State for Crime and Policing, to Chairs of Licensing Committees dated 8 April 2020.](#)

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Report to Licensing Committee

Date: 1 July 2020

Reference number: N/A

Title: Progress update on the development of the Buckinghamshire Council Taxi and Private Hire Licensing Policy

Relevant councillor(s): Licensing (Regulatory) Committee, Cllr Fred Wilson, Cabinet Member for Regulatory Services

Author and/or contact officer: Simon Gallacher, Principal Licensing Officer

Ward(s) affected: N/A

Recommendations: To note and comment on the content of the report, no decision required.

Reason for decision: N/A

Executive summary

- 1.1 The Council's taxi and private hire licensing policy is an important document that demonstrates the Council's commitment to securing public safety, provides clarity for applicants and licence holders, assists decision making, facilitates enforcement activities and helps safeguard against legal challenge. The creation of Buckinghamshire Council presents an opportunity to create a new policy that promotes the highest possible standards to secure public safety, support the Council's key priorities of protecting the vulnerable and improving the environment and promotes the local economy. A new draft policy document is being prepared, ready for consultation later this year, with a view to adoption early next year.

Content of report

- 1.2 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 should always be the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. The

Council's taxi and private hire licensing policy plays an integral part in both securing and demonstrating the Council's commitment to this important objective.

- 1.3 The creation of Buckinghamshire Council has brought together four separate licensing authorities, each formerly designated to administer the licensing arrangements in respect of private hire and hackney carriage operations. To support this licensing function, each former District adopted distinct policies, procedures, fee structures, conditions and Byelaws.
- 1.4 Legal advice provided prior to vesting day, confirmed that in accordance with the provisions of the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (SI 2008/2867) ("the 2008 Regulations"), while licensing functions are now administered by Buckinghamshire Council, the functions and systems of the former District Councils continue to apply to the respective geographic areas of the former Councils. As a consequence, until such time as the new Council exercises its discretion to amalgamate these areas, the local licensing arrangements will continue to apply in the geographic areas of the former Districts.
- 1.5 Legal opinion further confirmed that Buckinghamshire Council was not required to have new unified policies in place to cover its geographical area immediately for vesting day. Indeed there is no statutory requirement to have a taxi and private hire licensing policy at all, however it is recognised as best practice. Written policies demonstrate the Council's commitment to securing public safety, provide clarity for applicants and licence holders, assist decision making, facilitate enforcement and help safeguard against legal challenge.
- 1.6 It is clearly desirable that Buckinghamshire Council moves to align policies and procedures in respect of taxi and private hire licensing matters. It is important that decision making is consistent and drivers, vehicles and operators are held to the same standards across the Council and, as far as possible, they are subject to the same fee levels. Furthermore, it has been a number of years now since the respective policies were subject to a full review: Aylesbury, October 2016; South Bucks, November 2016; Chiltern, October 2017; Wycombe, April 2017.
- 1.7 Representatives from the four former Districts commenced preparatory work on a new draft policy prior to vesting day. Current policies were bench marked to highlight key policy differences and identify areas of best practice. James Button & Co Solicitors, one of the leading legal experts in taxi and private hire licensing matters, were commissioned in March 2020 to assist with preparing a new draft taxi and private hire licensing policy for Buckinghamshire Council.

1.8 James Button & Co were provided with a comprehensive scoping document, setting out areas for inclusion in the draft policy document. They were specifically briefed to draft a policy that:

- Supports the Council's commitment to secure public safety
- Is robust to withstand legal challenge.
- Contains unambiguous policy statements ("bright lines" approach)
- Incorporates the highest standards from the various existing policies, updated where necessary to reflect current best practice
- Includes some aspirational elements that may not feature in the current policies but would be desirable.
- Ensures that Buckinghamshire Council has the best possible policy in place.
- Includes a set of supporting conditions.

They were asked to provide advice on retrospective application of the policy, for example where higher standards are being suggested, the application and appropriateness of grandfather rights, and comment on the inclusion of Byelaws.

1.9 At the time of writing this report, the first draft of the policy is near completion but is not yet available. Officers will provide a further verbal progress report at the meeting.

1.10 Alongside, and in conjunction with the adoption of a new policy, the Council will need to consider a number of key issues.

1.11 With respect to Hackney Carriages, there are currently separate zones in operation across the former District areas. Vehicles licensed in one particular zone may only park on ranks and ply for hire in the zone in which it is licensed. Each of these zones is subject to its own schedule of fares and different vehicle standards, Byelaws, conditions and licence fees apply. In addition a limitation policy in the Aylesbury 'Town' zone limits the number of permitted licensed vehicles to 50. In accordance with the relevant legal provisions, the Council may either decide to keep these zones or remove the zones by way of resolution. Zones cannot be partially merged or reintroduced once they have been removed.

1.12 With respect to Private Hire Vehicles, there are currently four areas in operation: Chiltern, South Bucks, Wycombe and Aylesbury. Operators licensed in one area are only permitted to dispatch vehicles and drivers licensed in the same corresponding area. Similarly to hackney carriages, each of these areas is subject to its own standards, conditions and licence fees. While the requirements for licensed drivers

are similar across the four areas, there are significant differences to the approaches taken in respect of vehicles and operators.

1.13 It is proposed that moves to adopt a new policy proceed on the following time lines:

- July 2020 Draft policy received and content reviewed by officers.
- August 2020 draft policy circulated to Licensing Committee Members
- 9 September 2020 – Licensing Committee consider draft policy
- September to December 2020 –stakeholder consultation
- 3 February 2021 – Licensing Committee consider consultation responses.

1.14 In conjunction with the above, the Council will potentially need to consider other matters such as resolutions pertaining to Private Hire and Hackney Carriage licensing areas, the adoption of new Byelaws, new fees and fare structures, and the appointment of taxi ranks. The Licensing Committee will continue to be advised on such matters.

Other options considered

1.15 There are no specific statutory time scales imposed on the Council to align taxi and private hire licensing policies. Furthermore, unlike the Licensing Act 2003 and Gambling Act 2005, there is no legal requirement to publish a statement of licensing policy for taxis and private hire operations. Maintaining and applying four different policies however is burdensome on the trade, Council Members and Officers. The adoption of a new policy, for the new Council area, presents a timely opportunity to review best practice and adopt the highest standards for Buckinghamshire's taxi and private hire trade.

Legal and financial implications

1.16 There is no statutory requirement to have a taxi and private hire licensing policy however a written policy document helps assist decision making and provides safeguards against legal challenge. Further specialist legal advice may be necessary to assist the Council with some of the measures identified in paragraph 1.14.

1.17 The additional cost of drafting the new policy have been met by funds allocated to the transformation work streams prior to vesting day. There may be future cost implications to the Council from new policy requirements, however any additional costs incurred or savings made will be reflected in future adjustments to fee levels.

The Council is legally obliged to ensure licence fee levels are set on a cost recovery basis.

Corporate implications

1.18

- Protecting the vulnerable – taxi and private hire vehicles play a valuable role in transporting vulnerable members of the community such as children and those with physical disabilities. Many children, including those with special educational needs, rely on taxis and private hire vehicles for school transport. This policy review presents an opportunity to ensure that the required standards of the Council’s Client Transport Services and private hire and taxi licensing are aligned. The policy also allows the Council to set out its expectations in terms of vehicle requirements, including accessibility requirements.
- Property – there are implications for the Council in respect of testing arrangements for vehicles. The Council is able to determine the frequency, manner and location of vehicle testing. Presently this varies between areas as to whether these tests are performed at Council or external facilities. A Council review is ongoing and various options are being explored, which includes the potential use of the new Pembroke Road facility for increased vehicle testing.
- HR – N/A
- Climate change – measures to encourage the use of low emission vehicles will be considered in the new policy.
- Sustainability – the provision of public transport reduces the need for car ownership. A policy that promotes higher quality transport options is more likely to be desirable to passengers and further reduce the need for vehicle ownership.
- Equality – an equality impact assessment will be undertaken in conjunction with the policy review.
- Data – the relevant Council’s data protection policies will be referenced in the policy document.
- Value for money – a unified policy reduces financial burdens on the Council with savings in Member and Officer time: consultations, committee meetings, enforcement and application processing. There are savings in advertising costs of statutory public notices required for changes to fees and hackney carriage fares. The trade benefit with one licensing regime for the whole Council area, rather than up to four under the current arrangements.

Consultation and communication

1.19 A full and comprehensive consultation exercise will take place once the draft policy is ready. Stakeholders will be invited to comment and all views will be referred back to the Licensing Committee and Cabinet Member for consideration before any final policy decisions are made.

Next steps and review

See paragraph 1.13

Background papers

N/A



Report to Licensing Committee

Date: 1 July 2020

Reference number: N/A

Title: Update on the unmet demand survey (Aylesbury area)

Relevant councillor(s): Licensing (Regulatory) Committee, Cllr Fred Wilson, Cabinet Member for Regulatory Services

Author and/or contact officer: Simon Gallacher, Principal Licensing Officer

Ward(s) affected: N/A

Recommendations: To note and comment on the content of the report, no decision required.

Reason for decision: N/A

Executive summary

1.1 The Council is permitted to limit the number of hackney carriages (taxis) it licences in a particular zone, if satisfied that there is no significant demand which is unmet. The Aylesbury 'Town' zone is the only area of Buckinghamshire Council subject to a numerical limit, which is currently 50. The only feasible way of establishing unmet demand is through a survey, which must be conducted at regular intervals to remain reliable and withstand legal challenge. It is over five years since the last survey was conducted, a new survey was commissioned in March 2020, however work on the survey is now suspended as a consequence of the Covid-19 impact.

Content of report

1.2 The creation of Buckinghamshire Council has brought together four separate licensing authorities with separate Hackney Carriages zones in operation. Vehicles licensed in one particular area may only park on ranks and ply for hire in the area in which it is licensed. Each of these zones is subject to its own schedule of fares and different vehicle standards, Byelaws, conditions and licence fees apply.

- 1.3 The former Aylesbury Vale area contains separate hackney carriage zones arising from historical boundary changes. The Aylesbury 'Town' zone, which mirrors the former Aylesbury Borough Council, has a long established limit of 50 licensed hackney carriages. The remaining hackney carriage zones in Buckinghamshire are not subject to number limitations.
- 1.4 Section 16 of the Transport Act 1985 permits the Council to limit the number of taxis in respect of which licences are granted, if, but only if, the Council is satisfied that there is no significant demand which is unmet. Case law has established that where an authority cannot be satisfied that there is no unmet demand, it has no discretion to refuse to grant further licences for the purposes of limiting numbers.
- 1.5 According to the Department for Transport Taxi and Private Hire Licensing: Best Practice Guidance dated March 2010, the DfT regards no quantity restrictions as best practice but acknowledges that ultimately what matters is what is in the interests of the taxi travelling public. This involves balancing the benefits and disadvantages of continuing to limit against those for removing it.
- 1.6 The only meaningful way that an authority can be satisfied that there is no significant unmet demand, to assess the benefits and disadvantages of imposing a limit, and to determine an appropriate level at which to set a quantity restriction, is to conduct a survey. Surveys need to be sufficiently robust to withstand legal challenge and should entail monitoring waiting times at ranks, assessing waiting times for hailing customers, waiting times for advanced bookings, latent demand and consultation with the trade, passengers and wider stakeholders.
- 1.7 In line with DfT guidance, licensing authorities are encouraged to review quantity restriction policies at least every three years. The last detailed survey was carried out in respect of Aylesbury Town in 2014. Since this time changes to parking arrangements in the town centre have affected the location and availability of taxi ranks and dedicated parking spaces for taxis. Uncertainty surrounded the permanency of these parking arrangements as the Parking Service of the former County Council had planned to review the town centre parking arrangements in 2018/2019. The former Licensing Committee of Aylesbury Vale DC determined on several occasions that it would be difficult to conduct a meaningful survey if standing provision for taxis were expected to change. In January 2020 the Licensing Committee considered the matter again, in light of the fact that a review of the town centre parking arrangements had still not been instigated and any possible changes were unlikely to occur in the near future. The Committee considered that it had been five years or more since the last survey had been conducted. The Committee determined that it was now appropriate to instigate a survey to ascertain levels of demand for hackney carriages in the town centre; it was anticipated that the

outcome of the survey would support policy decisions for Buckinghamshire Council post vesting day.

- 1.8 Following the decision of the Licensing Committee, a specialist traffic and transportation survey company was instructed to commence the survey work forthwith and dates in mid-March 2020 were agreed to perform the physical observation element of the surveys. Shortly after agreeing the dates, the Covid-19 virus started to have an impact and it was deemed appropriate to suspend work on the survey as the information gathered would not be representative.
- 1.9 It is difficult to envisage at this stage when hackney carriage and private hire operations may return to 'normal' operation. Until such time as this occurs it is eminently sensible to refrain from conducting a survey and this work remains suspended.
- 1.10 Depending on the outcome of the pending taxi and private hire policy review, it may be deemed not appropriate or necessary to proceed with the survey work. A survey is only required to provide evidence to support a numerical limitation policy. Should the Council decide not to impose a limit then no survey is required, however such a decision should be subject to stakeholder consultation.

Other options considered

- 1.11 The Council could instigate the stakeholder questionnaire element of the survey, however an essential element of the survey work is the physical observations of traffic activity and taxi rank use. Without this physical element it is not possible to conduct any meaningful analysis. It is likely to be many months before meaningful physical observations can be performed by which time questionnaire data collated at the present time could be considered obsolete.

Legal and financial implications

- 1.12 Legal implications contained within the body of the report.
- 1.13 No additional financial implication. The cost of the survey work has been met through the budget of the former AVDC licensing service.

Corporate implications

- 1.14
 - Property – N/A
 - HR – N/A
 - Climate change – N/A

- Sustainability – Ensuring that the right level of taxis are available is more likely to reduce the desire for individual car ownership and helps promote the sustainability objectives of the Council.
- Equality – in accordance with current policy requirements all Aylesbury Town licensed hackney carriages are required to be wheelchair accessible. Future decisions affecting the availability of hackney carriage should be considered in light of an equalities impact assessment.
- Data – N/A
- Value for money – the cost of the survey work has been met through the budget of the former licensing service of AVDC.

Consultation and communication

1.15 The consultation work associated with the unmet demand survey has not been commenced.

Next steps and review

The decision to suspend the 'Unmet Demand Survey' will be maintained under review as the Covid-19 situation evolves and decisions are made concerning taxi and private licensing policy matters in Buckinghamshire.

Background papers

[Department for Transport Best Practice Guide 2010.](#)