

## REPORT TO

### Licensing Sub Committee 2 6 November 2018

<b>Subject:</b>	Private Hire/Vehicles/Operators Licence related matters
<b>Director:</b> <i>(Insert all that apply from drop down choice).</i>	Executive Director – Resources – Darren Carter Executive Director of Adult Social Care, Health and Wellbeing – David Stevens, Director – Prevention and Protection – Stuart Lackenby
<b>Contribution towards Vision 2030:</b>	
<b>Contact Officer(s):</b>	<p>Fiona Gee – Interim Licensing Manager <a href="mailto:Fiona_gee@sandwell.gov.uk">Fiona_gee@sandwell.gov.uk</a></p> <p>David Elliott – Legal Advisor <a href="mailto:David_elliott@sandwell.gov.uk">David_elliott@sandwell.gov.uk</a></p>

#### DECISION RECOMMENDATIONS

That the Committee take appropriate action in respect of individual licence applications and current licences in view of the information presented.

#### 1 PURPOSE OF THE REPORT

To inform the Committee of matters affecting applications for licences and licences previously granted under the terms of the Local Government (Miscellaneous Provisions) Act 1976

## **2 IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 The Licensing process contributes to the Sandwell's Vision 2030 – Ambition 3 our workforce and young people are skilled and talented geared up to respond to changing business needs to win rewarding jobs in a growing economy locally.
- 2.2 Through the provision of the Private Hire and Hackney Carriage licensing service, the Licensing section is committed to contributing to Ambition 5 our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods.
- 2.3 Ambition 10 Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 Section 51 of the Act provides that a district council shall on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence:
  - a) unless they are satisfied that the applicant is not a fit and proper person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence;
  - b) to any person who has not for at least twelve months been, and is not at the date of application for a driver's licence, the holder of a licence granted under part III of the Act of 1972, 1988 (not being a provisional licence) authorising him to drive a motor car.
- 3.2 Section 61 (1) of the Act states that a district council may suspend, revoke or refuse to renew a private hire/hackney carriage driver's licence on any of the following grounds:
  - a) the holder has, since the grant of the licence;
    - i) been convicted of an offence involving dishonesty, indecency or violence, or
    - ii) been convicted of an offence or failed to comply with the provisions of this part of the Act, or
    - iii) any other reasonable cause.

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the

period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) if it appears that the interest of public safety requires the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

- 3.3 Section 48 of the Act states that a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied:-

- (a) that the vehicle is:-
  - (i) suitable in type, size and design for use as a private hire vehicle;
  - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
  - (iii) in a suitable mechanical condition;
  - (iv) safe; and
  - (v) comfortable;
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of part VI of the Act of 1972.

Section 55 of the Act states:-

(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

(2) Every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specify in the licence.

(3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

3.4 Section 56 of the Act states:-

(1) For the purposes of this Part of this Act every contract for the hire of a private hire vehicle licensed under this Part of this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.

(2) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection.

(3) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep such records as the council may, by conditions attached to the grant of the licence, prescribe of the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or to any constable for inspection.

(4) A person to whom a licence in force under section 55 of this Act has been granted by a district council shall produce the licence on request to any authorised officer of the council or any constable for inspection.

(5) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence.

3.5 Section 62(1) of the Act states a district council may suspend or revoke, or (on application therefore under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:-

(a) any offence under, or non-compliance with, the provisions of this Part of this Act;

- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- (d) any other reasonable cause.

3.6 Section 60 of the Act states that a district council may suspend or revoke or refuse to renew a vehicle licence on any of the following grounds:-

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this part of this Act by the operator or driver; or
- (c) any other reasonable cause.

3.7 Individual case details are appended which refer to unspent convictions. Unspent convictions are those not covered by the Rehabilitation of Offenders Act 1974.

3.8 If an application is refused, suspended or revoked the applicant has the right of appeal to the Magistrates Court.

## **4 STRATEGIC RESOURCE IMPLICATIONS**

There are no resource implications in this report.

## **5 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 5.1 Article 6 of the Human Rights Act 1998 state that in determination of a person's civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 5.2 Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.
- 5.3 Part II, Article 1 of the Act states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles on international law.

## **6 EQUALITY IMPACT ASSESSMENT**

It was not necessary to undertake an Equality Impact Assessment.

## **7 DATA PROTECTION IMPACT ASSESSMENT**

It was not necessary to undertake a Data Protection Impact Assessment. Data gathered during Licensing hearings is used and retained in accordance with current legislative requirements.

## **8 CRIME AND DISORDER AND RISK ASSESSMENT**

The Licensing Sub-Committees help to deter and prevent crime and disorder by exercising its quasi-judicial powers.

## **9 SUSTAINABILITY OF PROPOSALS**

There are no direct sustainability issues arising from this report.

## **10 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

There are no direct health and wellbeing implications from this report.

## **11 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

There is no direct impact on any council managed property or land from this report.

## **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

The purpose of the report is to allow the Licensing Sub-Committee to make an informed decision in respect of individual licence applications and current licences in view of the information presented to them .

## **13 BACKGROUND PAPERS**

- Licensing (Miscellaneous Provisions) Act 1976
- Council Policy and Guidelines
- Human Rights Act 1998

## **14 APPENDICES:**

None

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