



Licensing Committee

Committee Members: Councillors Benstead (Chair), Bird (Vice-Chair), Austin, Bick, Gawthrope, McPherson, Meftah, O'Connell, O'Reilly, Pippas, Ratcliffe and Sinnott

Alternates: Councillors Moore

Published & Despatched: Friday, 15 January 2016

Date: Monday, 25 January 2016

Time: 10.00 am

Venue: Committee Room 1 & 2, The Guildhall, Market Square,
Cambridge, CB2 3QJ

Contact: Sarah Steed

AGENDA

- 1 **APOLOGIES FOR ABSENCE**
- 2 **DECLARATIONS OF INTEREST**
- 3 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 8*)
- 4 **PUBLIC QUESTIONS**
- 5 **LICENSING FEES** (*Pages 9 - 16*)
- 6 **GARAGE TRANSFER - VEHICLE TESTING** (*Pages 17 - 24*)
- 7 **AUTHORISATION OF OFFICERS TO SERVE CLOSURE NOTICES UNDER THE CRIMINAL JUSTICE AND POLICE ACT 2001** (*Pages 25 - 28*)

Information for the Public

Location The meeting is in the Guildhall on the Market Square (CB2 3QJ).

Between 9 a.m. and 5 p.m. the building is accessible via Peas Hill, Guildhall Street and the Market Square entrances.

After 5 p.m. access is via the Peas Hill entrance.

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LICENSING COMMITTEE

12 October 2015

10.00 - 10.15 am

Present: Councillors Benstead (Chair), Bird (Vice-Chair), Austin, Bick, Gawthrope, McPherson, Meftah, O'Connell, O'Reilly, Pippas, Ratcliffe and Sinnott

Officers Present:

Environmental Health Manager: Yvonne O'Donnell

Licensing & Enforcement Manager: Lewis Ducket

Committee Manager: Toni Birkin

FOR THE INFORMATION OF THE COUNCIL

15/20/LIC Apologies for absence

Apologies were received from Councillor Owers. Councillor Sinnott was present as the alternate.

15/21/LIC Declarations of Interest

Councillor O'Reilly declared a personal interest in item 15/24/LIC as she lives above a Bookmakers.

15/22/LIC Minutes of the previous meeting

The minutes of the meeting of the 20th July 2015 were agreed and signed as correct record.

15/23/LIC Public Questions

There were no public questions.

15/24/LIC Review of Gambling Statement of Principles

The Committee received a report from the Environmental Health Manager, advising that Cambridge City Council, as the Licensing Authority, is required to discharge its responsibilities under the Gambling Act 2005 with a view to promoting the three licensing objectives, namely;

- i. Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ii. Ensuring that gambling is conducted in a fair and open way; and
- iii. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Gambling Act 2005 was designed to be a light touch piece of legislation covering a number of “licensable activities”. Such activities are defined within the Act. All councils are required to re-write their policies and have them in place for January 2016.

The Committee asked the following questions in response to the report:

- i. Expressed surprise at the low response rates to the consultation and questioned how much weight should be given to a single consultees comments.
- ii. Suggested that a No Casino’s policy would be welcomed.
- iii. Questioned how many premises in Cambridge had Licences for licensable gambling activities.

In response to the Committee’s questions, the Environmental Health Manager, confirmed the following:

- i. The gambling related criteria detailed on page eleven of the report had been taken from statutory guidance. Whilst, there was no specific criterion regarding addiction, this would be included in the mental health criteria.
- ii. Stated that the low consultation response rate from the extensive consultee list was to be expected as this was not an area that caused concerns in Cambridge.
- iii. Confirmed that an on-line gambling establishment with a Cambridge address would need a Licence.
- iv. Confirmed that Cambridge currently had: 18 Bookmakers, 2 Gaming Centres and 1 Family Entertainment Centre.

Councillor Benstead stated that a ‘No Casinos’ policy could not be made at this Committee and would require extensive consultation. This would be a decision for the future. He welcomed the opportunity to develop detailed Local Area Profiles as this would provide the evidence the Committee needed to reject unsuitable applications. The Committee currently lacked evidence regarding young or vulnerable members of the community.

Resolved unanimously to recommend to Council to:

- i. To endorse the post-consultation draft Statement of Gambling Principles shown in Appendix A and recommend to full Council that the policy is approved for publication on 21 December 2015 for it to come in to effect on 18 January 2016.

The meeting ended at 10.15 am

CHAIR

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CAMBRIDGE CITY COUNCIL

REPORT OF: Yvonne O'Donnell
Environmental Health Manager

TO: Licensing Committee

26 January 2016

WARDS: All

ANNUAL REVIEW OF LICENSING FEES AND CHARGES – 2016/ 17

1 INTRODUCTION

- 1.1 Cambridge City Council, as the Licensing Authority, is responsible for processing and issuing licences for a wide range of activities. This report sets out the fees and charges for licences and associated items, which it is proposed should be made with effect from 1st April 2016. The approved charges will be submitted to Full Council to note on 25th February 2016.

2. RECOMMENDATIONS

- 2.1 Members are recommended:

To approve the level of fees and charges with effect from 1st April 2016, as set out in Appendix A of this report, and to request officers to communicate the charges to the businesses, taxi trade and public.

3. BACKGROUND

- 3.1 The Council is required to review the charges which it makes for licences and other associated items, from time to time. Council policy is that an annual review will be undertaken.
- 3.2 The Council must seek to recover the costs associated with processing applications for licences and the administration and monitoring of compliance with conditions. However, it is not permitted to make a surplus nor to subsidise licence holders. The fees charged should be capable of withstanding legal challenge, should the need arise.

- 3.3 The cost to the Council of this work is regularly checked and real time costs have replaced estimates in compiling the figures. Where it is possible to reduce costs by use of more efficient working this is reflected in the charges made.
- 3.4 The proposed charges for 2016/17, together with the fees currently being charged, are set out in Appendix A.
- 3.5 Where changes to fees are indicated, these have been made with specific reference to the costs involved in the work required, rather than on the basis of a standardised approach.
- 3.6 Fees for renewals of Private Hire Operator licences now reflect a five yearly renewal and take into account the new renewal process which was implemented following de-regulation in October 2015.
- 3.7 Fees for a replacement licence or change of details now reflect the costs of administration for this, which had not been included previously.
- 3.8 Fees for licences issued under the Licensing Act 2003 for premises and personal licences are currently fixed by the Government and are included in Appendix A for information only.
- 3.9 Permit fees under the Gambling Act 2005 are set by the Government and the Licensing Authority has no discretion. However, premises licence fees are set subject to the maxima laid down by the Department of Culture, Media and Sport and delegated to officers to determine. They are included in Appendix A for information.
- 3.10 Fees for Scrap Metal Dealers and Scrap Metal Collectors licences have been set by the Executive Councillor for Environment and Waste and are included in Appendix A.
- 3.11 Fees for Animal Businesses, Skin Piercing and Sex Establishments have increased by 2.5%, in line with the rate of inflation.
- 3.12 Officers have reviewed the control of Street Trading account and recommend that consent fees for 2016/17 are kept at current 2014/15 prices. The Local Government (Miscellaneous Provisions) Act 1982 requires the City Council to set consent fees at a level only to recover costs, after taking in account surpluses and deficits from previous years.

4. OPTIONS

4.1 The Committee may resolve to:

4.1.1 Adopt the fees as set out in Appendix A

4.1.2 Adopt fees at a different level to those set out in Appendix A, but, in doing so, should explain the reasons for departing from them, so as to enable the Council to withstand a legal challenge.

5. CONSULTATIONS

5.1 Under the Local Government (Miscellaneous Provisions) Act 1976, the Council is required to consult on any changes to the fees and charges in respect of Hackney Carriage and Private Hire licensing.

5.2 A 28 day public consultation took place from 2 November 2015 to 29 November 2015. Four responses were received as detailed in Appendix B.

5.3 Of the four responses received, one focussed on budget setting within Licensing and Enforcement and was not entirely relevant to the Fees consultation. The matters raised by the individual have been considered and responded to outside of the consultation.

5.4 An additional two responses also were not entirely relevant to the Fees consultation and referred to Fares and Enforcement. These too have been considered and responded to outside of the consultation.

5.5 The final response related to emissions and vehicle running costs and has been responded to outside of the consultation.

6. CONCLUSIONS

6.1 The Council needs to demonstrate that the fees it charges for licences have been set in accordance with the law and best practice, so as to recover its allowable costs in administering the various licensing regimes for which it is responsible.

6.2 Fees should be set so as to avoid either a surplus or a subsidy, where possible, and adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.

6.3 Members should determine which of the options, under Section 5 above, they wish to pursue or to determine such other course of action they consider appropriate.

7. IMPLICATIONS

(a) **Financial Implications**

The charges are set to recover the Council's allowable costs, as at present.

(b) **Staffing Implications**

Nil.

(c) **Equal Opportunities Implications**

Nil.

(d) **Environmental Implications**

Nil.

(e) **Procurement**

Nil.

(f) **Consultation and communication**

The charges proposed under the heading Taxi Licences have been the subject of a formal 28 day consultation.

(g) **Community Safety**

Nil.

APPENDICES

Appendix A: Table of proposed fees

Appendix B: Responses to Consultation

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

Calculation Spreadsheets

To inspect these documents contact Victoria Jameson on extension 7863.

The author and contact officer for queries on the report is Victoria Jameson on extension 7863.

Date originated: 05 January 2016

Date of last revision: 05 January 2016

Environmental Health Service - Review of Fees & Charges 2016-17

Charge Type and Description	Charges 2014/15	Charges 2015/16	Charges 2016/17	% Increase
Animal Businesses (New and Renewal)				
Pet Shop Licence	£275.00	£315.00	£323.00	2.5%
Animal Boarding Establishment	£275.00	£315.00	£323.00	2.5%
Dog Breeding Establishment	£275.00	£315.00	£323.00	2.5%
Riding Establishment	£275.00	£315.00	£323.00	2.5%
Zoo	£500.00	£530.00	£543	2.5%
Dangerous Wild Animals	£275.00	£315.00	£323.00	2.5%
Home Boarding		£80.00	£82.00	2.5%
Skin Piercing				
Skin Piercing – Premises	£130.00	£132.00	£135.00	2.5%
Skin Piercing - Practitioners	£45.00	£50.00	£52.00	2.5%
Sex Establishments				
Sexual Entertainment Venues (new & variation)	£2,700.00	£2,754.00	£2,823.00	2.5%
Sexual Entertainment Venues (renewal)	£800.00	£816.00	£836.00	2.5%
Sexual Entertainment Venues (transfer)	£800.00	£816.00	£836.00	2.5%
Sex Shop / Sex Cinema (new & variation)	£2,500.00	£2,550.00	£2,614.00	2.5%
Sex Shop / Sex Cinema (renewal)	£800.00	£816.00	£836.00	2.5%
Sex Shop / Sex Cinema (transfer)	£800.00	£816.00	£836.00	2.5%
Taxi Licences				
Drivers				
Disclosure & Barring Service Check (DBS) *	£44.00	£44.00	£44.00	0.0%
Knowledge Test	£36.00	£40.00	£40	0.0%
New Licence Fee	£145.00	£175.00	£190.00	8.5%
Annual Renewal Fee	£75.00	£75.00	£80.00	6.6%
3 Yearly Renewal Fee	£150.00	£150.00	£150.00	0.0%
Replacement Badges	£15.00	£15.00	£15.00	0.0%
DVLA Data Check *	£8.00	£8.00	£8.00	0.0%
Replacement Licence	NA	NA	£10.00	NA
Change of Details	NA	NA	£10.00	NA
Vehicles				
Hackney Carriage Licence (New)	£200.00	£225.00	£225.00	0.0%
Private Hire Licence (New)	£190.00	£210.00	£225.00	7.1%
Private Hire Licence Renewal	£170.00	£200.00	£200.00	0.0%
Hackney Carriage Licence Renewal	£170.00	£210.00	£210.00	0.0%
Plate Deposit	£50.00	£50.00	£50.00	0.0%
Replacement Plate	£25.00	£25.00	£25.00	0.0%
Change of Ownership	£80.00	£50.00	£55.00	10.0%
Crest - self adhesive	£6.00	£6.00	£6.00	0.0%
Crest - magnetic	£8.00	£8.00	£8.00	0.0%
Replacement Licence	NA	NA	£10.00	NA
Change of Details	NA	NA	£10.00	NA
Operators Licence				
Private Hire Operators Licence (New)	£140.00	£140.00	£150.00	7.1%
Private Hire Operators Licence (Renewal) - 5 Yearly Renewals from Oct 2015	NA	NA	£640.00	NA
Replacement Licence	NA	NA	£10.00	NA
Change of Details	NA	NA	£10.00	NA
Transponders				
Annual permit	£20.00	£20.00	£20.00	0.0%
Deposit *	£80.00	£80.00	£80.00	0.0%
Replacement *	£80.00	£80.00	£80.00	0.0%
* Externally set fees and charges				
Scrap Metal Dealers				
Site Licence		£410.00	£420.00	2.40%
Conversion to collector's licence		£50.00	£51.00	2.00%
Change of licensee name		£50.00	£51.00	2.00%
Addition of site		£410.00	£420.00	2.40%
Removal of site		£50.00	£51.00	2.00%
Change of Site Manager		£120.00	£123.00	2.50%
Replacement of lost or damaged licence		£45.00	£46.00	2.20%
Collector's licence		£175.00	£179.00	2.30%
Conversion to site licence		£355.00	£363.00	2.30%
Change of name (e.g. status)		£50.00	£51.00	2.00%
Replacement of lost or damaged licence		£45.00	£46.00	2.20%
Street Trading				
12 month food licence pitch	£2,886	£2,886	£2,886	0.0%
12 month retail licence pitch	£2,727	£2,727	£2,727	0.0%
8 month food licence pitch	£2,165	£2,165	£2,165	0.0%

Environmental Health Service - Review of Fees & Charges 2016-17

Charge Type and Description	Charges 2014/15	Charges 2015/16	Charges 2016/17	% Increase
8 month retail licence pitch	£2,045	£2,045	£2,045	0.0%
4 month food licence pitch	£722	£722	£722	0.0%
4 month retail licence pitch	£682	£682	£682	0.0%
Licensing Act 2003 (For information only)				
Personal Licence	£37	£37	£37	0.0%
New Premises Licence (or full variation)	£1,905	£1,905	£1,905	0.0%
Annual Fee	£70-£1050	£70-£1050	£70-£1050	0.0%
Minor Variation	£89	£89	£89	0.0%
Temporary Event Notice	£21	£21	£21	0.0%
Change of Designated Premises Supervisor	£23	£23	£23	0.0%
Gambling Act 2005 (For information only)				
Bingo Club (New)	DCMS Max £3,500	CCC Fee £2,625	CCC Fee £2,625	0.0%
Bingo Club (Annual Fee)	£1,000	£900	£900	0.0%
Betting Premises (New)	£3,000	£2,250	£2,250	0.0%
Betting Premises (Annual Fee)	£600	£540	£540	0.0%
Family Entertainment Centre (New)	£2,000	£1,500	£1,500	0.0%
Family Entertainment Centre (Annual Fee)	£675	£500	£500	0.0%
Adult Gaming Centre (New)	£2,000	£1,500	£1,500	0.0%
Adult Gaming Centre (Annual Fee)	£1,000	£900	£900	0.0%

Response 1

From: [REDACTED]

Sent: 02 November 2015 11:38

To: licensing

Subject: Taxi licensing fees

Hi dear

I would like to say that it is not really a good idea. Every day new drivers, new private hire, new company, more cars, more car prices keeps dropping off on fare. You don't do anything about it, you have to increase fare or meter, but you would like to increase your price adding every year different things. That's why I am not happy about that.

Thank you

Your sincerely, by the way my name is [REDACTED]

Response 2

-----Original Message-----

From: [REDACTED]

Sent: 06 November 2015 13:16

To: licensing

Subject: Taxi Licensing Fees

Thank you for the invitation to take part in the consultation being undertaken regarding taxi licence fees.

It is difficult to form any opinion with the limited information supplied so I would ask that you forward to the following information to me as quickly as possible.

Current year Licensing budget.

Last year Licensing budget and actual expenditure.

Next year's proposed Licensing budget including all licence fees.

Licensing staff and the break down of their working hours.

I look forward to your response.

[REDACTED]

Response 3

From: [REDACTED]
Sent: 23 November 2015 14:58
To: licensing
Subject: consultation

how can fees go up when taxi fares have stagnated ? some of us are 6 to a house .when everything is deducted we are on less we on less on less than than living wage.

why wasnt there a significant increase this year we are not even making a living.

from [REDACTED]

Response 4

-----Original Message-----

From: [REDACTED]
Sent: 27 November 2015 13:45
To: licensing
Subject: Changes to taxi licensing charges and Diesel engine pollution

Dear Yvonne,

You're no doubt aware of the increasing controversy concerning Diesel engine emissions.

A recent report on BBC Panorama from 23rd November stated that on polluted streets a person breathes in 30 billion particles of diesel soot per hour. This soot has serious implications for lung disease and cardio vascular disease.

Nitrogen Oxide (NOx) emissions from Diesel engines also cause serious health and smog problems. You may also be aware that the World Health Organisation has classified diesel fumes as carcinogenic.

Given these serious issues, is it not time that Diesel engined cars became more expensive to licence as taxis than petrol-electric hybrid and petrol vehicles?

This would be a positive change to the proposed taxi licensing charges.

Kind regards
[REDACTED]

CAMBRIDGE CITY COUNCIL

REPORT OF: Yvonne O'Donnell
Environmental Health Manager

TO: Licensing Committee

26 January 2016

WARDS: All

VEHICLE TESTING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

1 INTRODUCTION

- 1.1 The garage and fleet service located at Mill Road Depot is to be relocated to Waterbeach to enable redevelopment of the land.
- 1.2 The report proposes that the mandatory vehicle testing for Hackney Carriage and Private Hire Vehicles continues to be undertaken by Cambridge City Council, at the new garage site once it has been relocated to Waterbeach.
- 1.3 The benefits of hackney carriage and Private Hire vehicles being tested for compliance at Cambridge City Council garage is that it provides consistency with the testing of the vehicles. It gives greater control to the authority to ensure that public safety is paramount.
- 1.4 By retaining this function within Cambridge City Council it will ensure compliance of the processes in line with policy and legislative requirements. There will be greater transparency and communication at an operational level to assist with the licensing process.

2. RECOMMENDATIONS

- 2.1 Members are asked to agree the principles of vehicle testing and the issuing of Certificate of Compliance (COC) for Hackney Carriage and Private Hire Vehicles to be undertaken by Cambridge City Council at the garage when it relocates to Waterbeach.

2.2 If Members agree to 2.1 above then the taxi policy is amended accordingly in paragraph 12.2 of the taxi policy

3. BACKGROUND

3.1 Cambridge City Council, as the Licensing Authority, is responsible for the regulation of Hackney Carriage Vehicles (HCV) and Private Hire Vehicles (PHV) under the provisions of the Town Police Clauses Act 1847 and the Local Government Miscellaneous Provisions Act 1976.

3.2 The Local Government (Miscellaneous Provisions) Act 1976 permits a Council to require Hackney Carriage and Private Hire Vehicles to undergo tests on no more than three occasions per annum. Cambridge City Council currently licences 327 Hackney Carriage Vehicles and 168 Private Hire Vehicles [data sourced 3 December 2015] which are tested twice yearly.

3.3 The testing of licensed vehicles can be over and above what is expected for MOT tests under the Road Traffic Acts. The Council can set its own standards which can include standards of bodywork and cleanliness, for example.

3.4 Cambridge City Councils' garage is authorised by the Driver and Vehicle Standards Agency to be testing station to carry out MOTs. The City Council is authorised by the Secretary of State for the Department of Transport to undertake inspections of taxi vehicles and to issue certificates of compliance (COC) which can replace the need for MOT certificates

3.5 Council policy states (12.4) that Cambridge City Council follows the National Vehicle Standards testing method in order to ensure that the public have access to safe and well maintained Hackney Carriage and Private Hire Vehicles. The Licensing Authority are currently reviewing these standards.

3.6 Compliance with the requirements of the standards is assessed by the vehicle testers at the garage and confirmed by the issue of a certificate of compliance (COC).

3.7 Licensed vehicles that fail an authorised examination and test, and are deemed non-compliant by the vehicle tester, will result in the vehicle proprietor being invited to re-test the vehicle. If an existing licensed vehicle fails, it must not work until a compliance test has been passed.

3.8 Furthermore, Council policy sets down that proprietors of licensed vehicles are required to inform the Authority as soon as practicable or certainly within 72 hours of any accident causing “damage materially affecting the safety, performance or appearance of the Hackney Carriage or Private Hire vehicle or the comfort or convenience of persons carried therein”. Where necessary, and upon inspection by a Licensing & Enforcement Officer, these vehicles may require an additional vehicle test.

4. OPTIONS

4.1 To agree the principles that vehicle testing of hackney carriage and private hire vehicles are undertaken by Cambridge City Council at the relocated garage site.

4.2 To consider approving a list of alternative testing stations across the County

5. CONSULTATION

5.1 From 9 to 30 November 2015, consultation took place with the Taxi Trade to seek views, suggestions and obtain personal comment in order to assist the Council in shaping the way garage services are provided in order to comply with the regulation and safety standards of Taxi vehicles within Cambridge.

5.2 28 responses were received as detailed in Appendix A.

5.3 The majority of responses were in favour of continuing to use the City Council’s garage at Waterbeach.

5.4 However there was a strong view that the whole process of testing to issuing a license and a plate should be done in one location. This has been reviewed and it is important from a licensing authority prospective that the testing of the vehicles and the issuing of licenses are two very separate entities.

5.5 Officers are currently reviewing the whole process of vehicle licenses to allow for a much more streamlined process and this will be discussed with the taxi trade in due course

5.6 The City Council garage management are committed to extend the hours of opening to allow earlier and later test slots. They will also be

putting measures in place to allow for the trade to book their vehicles in directly with the garage and not via Customer Service Centre (CSC)

6. CONCLUSIONS

- 6.1 Agreement of the principles will support the statutory position of Hackney Carriage and Private Hire Vehicle Licensing along with protecting public safety.
- 6.2 It is important that strict criteria are laid down in relation to testing the fitness of a vehicle if the Council is to be assured that high and consistent standards are met.
- 6.3 By retaining this function within Cambridge City Council it will ensure compliance of the processes in line with policy and legislative requirements. There will be greater transparency and communication at an operational level to assist with the licensing process.

7. IMPLICATIONS

(a) Financial Implications

In relation to the test administration process, currently the fee each vehicle test is £56. Based upon a twice yearly test for up to 495 vehicles (information as at 2 December 2015) this gives the Council a gross income of £55,440 per annum. This does not take into account any re-tests or repair work undertaken by the garage.

Should the City Council Garage not continue to undertake the vehicle testing, the income from test fees would potentially cease.

(b) Staffing Implications

Some amount of officer time has been taken and will still be required to develop and fully implement the procedural changes following the relocation of the garage but it is expected that it will be met by existing resources.

(c) Equal Opportunities Implications

Nil.

(d) Environmental Implications

Nil.

(e) Procurement

Nil.

(f) **Consultation and communication**

There has been formal and informal consultation on Location of vehicle testing with trade representatives of both Hackney Carriages and Private Hire Vehicles, as well as with operators, users of the service, through the Taxi Trade Forum and with the trade.

(g) **Community Safety**

In relation to the testing of hackney carriages and private hire vehicles, Section 50(1) Local Government (Miscellaneous Provisions) Act 1976 states 'Without prejudice to the provisions of section 68 of this Act, the proprietor of any hackney carriage or private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such a place within the area of the council as they may by notice reasonably require'.

Section 68 Local Government (Miscellaneous Provisions) Act 1976 allows any authorised Officer of the council or any Constable to inspect and test, for the purposes of ascertaining fitness any hackney carriage licensed by a district council, if he is not satisfied as to the fitness of the vehicle. He may also require the proprietor to make his vehicle available for further inspection and testing and suspend the vehicle licence until such a time as he is satisfied.

The Council has a statutory obligation to ensure that all licensed vehicles in Cambridge City are of a safe standard for members of the public to use. All MOT test centres are approved by the Vehicle and Operator Standards Agency (VOSA).

Both the centres and the examiners must comply with strict standards.

APPENDICES

Appendix A: Responses to Consultation

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

National Vehicle Inspection Standards

Cambridge City Council Hackney Carriage & Private Hire Licensing Policy

To inspect these documents contact Victoria Jameson on extension 7863.

The author and contact officer for queries on the report is Victoria Jameson on extension 7863.

Date originated: 13 January 2016

Date of last revision: 13 January 2016

Mechanical Fitness Testing of Hackney Carriage and Private Hire Vehicles**Consultation Responses**

“All three services should at the same location.”
“ALL aspects of the above should be integrated on one site thus giving your customers a one stop shop.”
“The garage provides a good service in respect of testing vehicles and is a central position which is easy to access. The customer service centre provide a less than adequate service, appointment booking is impractical, inadequate parking (for a profession that relies on vehicles and uses them to obtain a living) is ridiculous if they were all in the same place.”
“It could provide an at cost repair service.”
“Extra garage opening hours would be welcome but would not like to have to make an additional journey to CSC to collect plates - please issue these at garage.”
“Please ensure that vehicle plates will continue to be provided at the garage - and not collected from Mandela House. Thank you.”
“It would be the best idea to move to Waterbeach for garage service of city council.”
“I have no problems with anything and even if i did nothing would change.”
“It's for our own safety and passenger safety.”
“Keep the costs always to a minimum.”
“Everything is good.”
“When the garage move to Waterbeach I believe in fair testing as we would be a joint Council the garage should test both South Cambs and City plates twice a year. To make this easier for all parties the admin side should all be in the same place to make it easier for everyone. Admin garage licensing all under the same roof.”
“Yes they are best.”
“Be in one place with parking.”
“Have vehicle license, plate all issued under 1 roof and to be able to book tests direct with garage and garage to check log book and insurance.”
“Everything needs to be in one place i.e. application and testing.”
“All tests booked direct with garage and not Mandela house, plates distributed by

garage.”

“Keep testing station as it is an independent body. Transfer admin etc. to same location as garage.”

“No comment. Happy the way it is.”

“Really should all be in 1 place.”

“Plates to be issued at garage.”

“Waterbeach sounds good.”

“Good.”

“Should be all in one place.”

“If everything is done in one place it would much better.”

“Waterbeach is not the ideal location for access for City drivers with the problems of congestion on the A10 and A14 around the Milton junction most of the day, and more so at peak times 7-30 am until 10am and from 3pm until 7pm, which will cut access to the garage for appointments. What will be the Councils response if a driver has a 10am appointment and gets stuck with one of the numerous accidents that happen or just from congestion as happens and is too late for appointment? Will you allow extra slots free to allow for this problem?

Mill Road currently provides a very good service and is easy to access unlike the new proposal. The garage at Waterbeach, other than access issues, could work with the added improvement of booking direct and still provide the same level of service, including issuing the taxi plate on completion of annual Taxi test as at Mill road depot now. Also Mandela House to issue the actual vehicle license as they do now.

This would remove the need for the trade to ask to follow the Governments recommended practice guide of using multiple garages to give drivers a better service, which our drivers have been asking for. All garages have to work to the same standard for vehicle testing set by the Government and are checked regularly by VOSA. If drivers had to come back to Mandela House to collect the plate from Waterbeach then it would be far better to have the choice of garages nearer to City centre to cut excessive mileage and added pollution and the added time getting back and forth.”

“On the last occasion that I needed to book a vehicle test using the Mandela House call centre it took four days before my call was eventually answered, I tried ringing every day from the Monday to the Thursday of that week. Telephone response at this call centre regarding the Taxi department requires serious rectification.

In comparison to other MOT stations some of the actual testing equipment needs updating, for instance the machines used for brake and emission checks.”

CAMBRIDGE CITY COUNCIL

REPORT OF: Yvonne ODonnell
Environmental Health Manager

TO: Licensing Committee 26th January 2016

WARDS: All

INCORPORATION OF THE CRIMINAL JUSTICE AND POLICE ACT 2001 INTO THE COUNCIL CONSTITUTION

1. INTRODUCTION

- 1.1 The purpose of this report is to authorise Council officers to exercise the powers to close unlicensed premises which are contained in the Criminal Justice and Police Act 2001 (the "Act"). In particular, section 19 of the Act allows for police constables or an authorised officer of the local authority to issue a closure notices where there is evidence of the premises providing the unauthorised sale of alcohol.

2. RECOMMENDATION

- 2.1 The Licensing Committee is asked to recommend to Full Council that sections 19-28 of the Criminal Justice and Police Act 2001 be added to the scheme of delegations which are the responsibility of the Licensing Committee as found in Part 3 Section 5.6 of the Council's constitution.
- 2.2 Subject to Council approval for recommendation 2.1 above, that the Director of Customer and Community Services be given delegated powers to exercise the Council's functions under sections 19 - 28 Criminal Justice and Police Act 2001

3. BACKGROUND & LEGISLATIVE PROVISIONS

- 3.1 There have been a number of recent incidents where officers from the Licensing & Enforcement Team have encountered premises selling or potentially selling alcohol without the appropriate authority from the Licensing Authority.
- 3.2 Such situations may arise because of:
- Absence of a Premises Licence, Club Premises Certificate or Temporary Event Notice
 - Breach of a licence condition attached to a Premises Licence or Club Premises Certificate

- The premises does not have a Designated Premises Supervisor (DPS) or the DPS is absent/no longer involved in the business
 - The Premises Licence Holder is incorrect e.g. it has not been transferred to the current operator
- 3.3 The Licensing Act 2003 makes the retail sale of alcohol a licensable activity. To sell alcohol without authorisation is deemed to be an 'unauthorised licensable activity', which is a criminal offence (section 136 of the Licensing Act 2003). Upon summary conviction a person found guilty of such an offence is subject to an unlimited fine and/or a maximum six month's imprisonment.
- 3.4 The Licensing & Enforcement Team has, however, been reviewing other options to tackle the unauthorised sale of alcohol; this includes pro-active measures to limit the chance of unauthorised licensable activity taking place. The Criminal Justice and Police Act 2001 introduces the use of 'closure notices' and 'closure orders'. These powers would provide a two-step process leading to the closure of premises that continue to allow the unauthorised sale of alcohol to take place.

Closure notice

- 3.5 The first step in the process is the service of a 'closure notice'. Section 19 (3) of the 'Act' enables a police constable or a local authority officer to serve a closure notice where:
- Any premises are being used, or have been used within the last 24 hours, for the sale of alcohol for consumption on or in the vicinity of the premises; and
 - This activity is or was carried on without an authorisation (Premises Licence, Club Premises Certificate or Temporary Event Notice) or not in accordance with the conditions of an authorisation for the sale of alcohol.
- 3.6 The notice informs a person with control of, or responsibility for, the activities carried on at the premises (normally the licence holder or the Designated Premises Supervisor), that if unauthorised alcohol sales continue, an application may be made to a Justice of the Peace for an order to close the premises. Such an application cannot be made less than seven days or more than six months after the service of the closure notice.
- 3.7 It should be stressed that a closure notice does not require premises to physically close or cease licensable activities. Rather, the notice informs a person in control of, or responsible for, the premises that there is either no authority to sell alcohol or one or more of the conditions of an authorisation are not being met. The person in control needs to be warned that it is an offence to carry on the sale of alcohol without, or in breach of, an authorisation. However, it is at the discretion of the individual receiving the notice whether to close or to continue trading, with or without the sale of alcohol.
- 3.8 Although a closure notice has no power to close premises, a notice must be served before an application can be made under section 20 of the 'Act' for a

section 21 'closure order'. Service of a notice is evidence that the unauthorised sale of alcohol has been brought to the attention of the owner or management of the premises. This evidence can be useful at a subsequent review of the licence, or a prosecution for carrying on a licensable activity, or knowingly allowing it to be carried on, otherwise than in accordance with an authorisation.

- 3.9 A closure notice lasts until such time as it is cancelled by service of a 'notice of cancellation' (section 19 (7) of the 'Act'). Any cancellation notice served takes effect immediately.

Application for a closure order

- 3.11 Following service of a closure notice a police constable or a local authority officer may make a complaint to a Justice of the Peace for a closure order (section 20 (1) of the 'Act'). Such a complaint must be made no less than seven days but not more than six months after the service of the closure notice.

Closure order

- 3.12 If the Court is satisfied that a closure notice was served in accordance with section 19 (3) of the 'Act', and that the premises continue to be used or are likely to be used in the future for the unauthorised sale of alcohol, they may make a section 21 closure order. The court may order: the immediate closure of the premises; discontinuance of alcohol sales; or, payment of money into court, as a form of bond, until the other requirements of the order are met.

- 3.13 Breaching the requirements of a closure order is a criminal offence. Section 25 (4) of the 'Act' provides that

A person who, without reasonable excuse, permits premises to be open in contravention of a closure order shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both.

- 3.14 The closure order remains in effect until it is terminated in one of two ways:

(a) A Constable or as the case may be the Local Authority may serve a certificate on the Court that made the Order and the person against whom the Order is made notifying that they are satisfied that the need for the Order has ceased

(b) Any person on whom a Closure Notice is served or who has an interest in the premises concerned may make an application under Section 23 of the 'Act' for the discharge of the Closure Order.

- 3.15 In the event a closure order was issued, it is likely that the licensing authority would apply for a review of the Premises Licence or Club Premises Certificate. The licensing authority may resolve to remove or suspend a licensable activity or suspend or revoke the licence or certificate.

- 3.16 To allow Officers of the Local Authority to exercise such powers there is the necessity to incorporate these powers into the constitution and add to the delegation and responsibility of the Licensing Committee.
- 3.17 Subject to full Council's approval of the recommendation, the Licensing committee will then be able to delegate the powers to Council Officers to exercise the Councils' functions under section 19-28 of the Criminal Justice and Police Act 2001

4. CONSULTATIONS

- 4.1 No consultations are required for the inclusion of these powers into the constitution and subsequent delegation to Officers

5. CONCLUSIONS

- 5.1 The Licensing Authority's primary aim is to protect the public, and ensure that residents, businesses and visitors have a safe experience within the City boundary. There are a number of existing enforcement tools to allow Officers to do this following the Councils corporate Enforcement policy.
- 5.2 However, to allow the Licensing Authority to use its full range of enforcement powers to deal with the unlawful sale of alcohol it is important that the Council includes these powers contained within the 'Act' into the constitution and add to the delegation and responsibility of the Licensing Committee
- 5.3 To allow Officers to exercise the Councils' functions under section 19-28 of the Criminal Justice and Police Act 2001, it is important that the Licensing Committee delegate these powers to Officers.

BACKGROUND PAPERS:

Criminal Justice and Police Act 2001
Licensing Act 2003

The author and contact officer for queries on the report is Alex Beebe on Ext. 7723

Report file: M:\LICENSE/04 - Other Licences/Committee Reports

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