

Mission Statement

To Improve the Quality of Life
For Those Who Live and Work in The District

30 April 2010

Dear Councillor

You are hereby invited to a meeting of the Licensing Committee to be held in Committee Room 2, Civic Centre, Portholme Road, Selby on Monday 10 May 2010, commencing at 10:00 am.

1. Apologies for Absence and Notice of Substitution

To receive apologies for absence and notification of substitution.

2. Disclosure of Interest

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 12 April 2010 (pages 4 to 6 attached)

4. Procedure

To outline the procedure to be followed at the meeting (pages 7 to 8 attached).

5. Chair's Address to the Licensing Committee

6. Regulation of Lap Dancing and Other Sexual Entertainment Venues.

Report of the Solicitor to the Council (Pages 9 to 11 attached)

7. Licensing Fees 2010/11

Report of the Solicitor to the Council (Pages 12 to 21 attached)

8. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

9. Application for a Hackney Carriage License

Report of the Solicitor to the Council (Pages not attached)

10. Application for removal of a consent street

Report of the Solicitor to the Council (Pages not attached)

S Martin
Strategic Director
30 April 2010

Disclosure of Interest – Guidance Notes:

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].

Dates of Future Meetings of the Licensing Committee

| Date of Meeting |
|-----------------|
| 7 June 2010 |
| 5 July 2010 |
| 2 August 2010 |
| 4 October 2010 |

Membership of the Licensing Committee 10 Members

| Conservative | Labour | Independent |
|----------------------|------------|-------------|
| K Ellis | | |
| J Dyson | D Davies | J McCartney |
| P Mackay | B Marshall | |
| K McSherry | | |
| S Ryder | | |
| R Sayner (Chair) | | |
| D White (Vice Chair) | | |

Enquiries relating to this agenda, please contact Jade Hibberd on:

Tel: 01757 292078
Fax: 01757 292020
Email: jhibberd@selby.gov.uk

SELBY DISTRICT COUNCIL

MINUTES

Minutes of the proceedings of a meeting of the Licensing Committee held on 12 April 2010 in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

| | |
|-----|---|
| 698 | Apologies |
| 699 | Disclosure of Interest |
| 700 | Minutes |
| 701 | Procedure |
| 702 | Chairs address to the Licensing Committee |
| 703 | Application for removal of a consent street |

Present: Councillor R Sayner in the Chair

Councillors: Councillor Mrs D White, Councillor Mrs D Davies, Councillor Mr B Marshall, Councillor Mrs J Dyson, Councillor McCartney, Councillor K Ellis, Councillor Mrs K McSherry, Councillor Mrs P Mackay and Councillor Mrs S Ryder.

Officials: Senior Solicitor, Licensing Enforcement Officer and Committee Services Officer.

Public: 0

Press: 0

698 **Apologies for Absence and Substitution**

None.

699 **Disclosure of Interest**

None.

700 **Minutes**

Resolved:

That the minutes of the proceedings of the meeting of the Licensing Committee held on 8 March 2010 be confirmed as a correct record and be signed by the Chair.

701 **Procedure**

The Procedure was noted.

702 **Chair's Address to the Licensing Committee**

The Chair reminded the Committee that any questions raised must be relevant to the application that is being considered.

703 **Application for removal of a consent street**

Councillors received the report of the Licensing Enforcement Officer in respect of determining to resolve to recommend to Full Council to remove the designation of Market Place, Selby as a consent street. Thus making it a prohibited street under Schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 in order to remove Market Place, Selby from the list.

The Licensing Enforcement Officer outlined details of the case.

Councillors heard clarification from the Environmental Health Manager regarding the entitlement of selling of hot food under the "Market Rights" from the Earl of Londesborough. It was also explain that hot food was supplied at the Wednesday Farmers market via separate legislation by the District Council. The committee were informed that negotiations were underway to transfer the "charter markets" over to the Town Council, which if successful would result in all decisions regarding trading on the market square transferring to the directive of the Town Council.

The Licensing Enforcement Officer informed Councillors that the 'Londesborough Arms Hotel' located on the Market Square were also in the process of applying for a 'Pavement Café Licence' allowing café style tables outside the premises serving hot food. This licence is issued by North Yorkshire County Council.

Councillors took a vote on the following recommendation, Councillor B Marshall and Councillor Mrs D Davis requested that it be noted they voted against the recommendation.

Recommendation to Council:

That the Market Place Selby be removed from the register of consent streets for the following reasons:

- **The impact that cooked food traders would have on the regenerated Market Place when there are alternative locations available.**

Licensing Committee
12 April 2010

- **Obstruction of emergency vehicle access.**

The meeting closed at 10:37am

LICENSING COMMITTEE

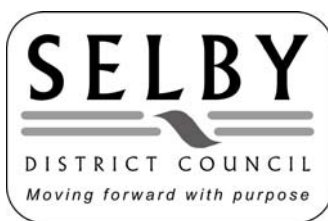
PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Members of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Members of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, press and public, will then be asked to withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Committee Section will inform in writing to the applicant the decision of the Licensing Committee.



Public Session

Agenda Item No: *

Title: The adoption of Policing and Crime Act 2009 regarding the regulation of lap dancing and other sexual entertainment venues.

To: Licensing Committee

Date: 10 May 2010

Service Area: Customers and Business Support

Author: Tim Grogan

Presented by: Tim Grogan

1. Purpose of Report

- 1.1 To consider adopting the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009.

2. Recommendation(s)

- 2.1 **It is recommended that the Council adopts the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009.**

3. Executive Summary

- 3.1 Lap dancing can currently be licensed within the provision of “performance of dance” under Section 1 of the Licensing Act 2003. This means that unless relevant representations are made to the Local Authority the licence must be granted subject only to certain mandatory conditions. Sex establishments (sex cinemas and sex shops) are currently licensed under Section 2 and Schedule

- 3.2 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the Council to licence “sexual entertainment venues”. The aim of this new legislation is to bring the licensing of lap dancing type premises in line with other sex establishments and to recognise the legitimate concerns of local people regarding such premises. At this time Selby District has no licensed sex establishments.

4. The Report

- 4.1 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the Licensing by the Local Authority of sexual entertainment venues, where “relevant entertainment” is provided before a live audience for the financial gain of the organiser or the entertainer. ‘Relevant entertainment’ means ‘any live display or entertainment of nudity’ i.e. striptease, lap dancing etc.
- 4.2 Lap dancing currently requires no Premises Licence under Section 1 of the Licensing Act 2003. No special provisions are made in the Act for Lap-Dancing Venues. If an application is submitted the authority must grant it subject to mandatory conditions.
- 4.3 If representations are made by an interested party or responsible authority then the authority can, following a hearing, impose other conditions or reject the application providing the rejection is in line with at least one of the 4 licensing objectives.
- 4.4 New legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a lap dancing premises is appropriate to the locality.
- 4.5 The aim is to bring the licensing of lap-dancing premises in line with other sex establishments such as sex shops and sex cinemas and to recognise the legitimate concerns of local people.
- 4.6 If the amendment is adopted the Licensing Authority can apply prescribed conditions on grounds not covered by the Licensing Act 2003, for example, with regard to location, hours, display of advertisements, visibility of the interior etc.

5. Financial Implications

- 5.1 The following financial implications have been identified:

The administrative arrangement for processing applications made by prospective applicants for “sexual entertainment venues” falls to the Licensing Department. A new application for the grant of a licence is £5,126, a renewal costs £5,126 and a transfer of a licence costs £260.50.

6. Link to Corporate Plan

- 6.1 The additional safeguards proposed in this report will help support the Council’s strategic theme of putting customers first.

7 How Does This Report Link to Council’s Priorities?

- 7.1.1 This report will contribute towards acknowledging the priority of safer communities.

8 Impact on Corporate Policies

8.1 **Service Improvement** **No Impact**

8.2 **Equalities** **Impact**
One aim of the new legislation is to give communities the chance to comment on applications both at the application and renewal stage, therefore giving the public a greater voice.

8.3 **Community Safety and Crime** **Impact**
It is expected that by amending the Act and re-classifying “sexual entertainment venues” the District Council can impose a wider range of conditions on licences.

8.4 **Procurement** **No Impact**

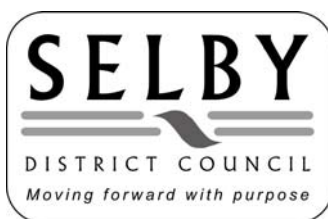
8.5 **Risk Management** **No Impact**

8.6 **Sustainability** **No Impact**

8.7 **Value for Money** **No Impact**

9 Background Papers

- 9.1 A copy of the Policing and Crime Act 2009 is available in the Legal Department.



Public Session

Agenda Item No: +

Title: Objection to Hackney Carriage and Private Hire licensing fees 2010/11

To: Licensing Committee

Date: 10 May 2010

Service Area: Customers and Business Support

Author: Tim Grogan

Presented by: Tim Grogan

1. Purpose of Report

- 1.1 To bring to the attention of this Committee that an objection has been received to the proposed Hackney Carriage and Private Hire fees for 2010/11.

2. Recommendation(s)

- 2.1 **It is recommended that the Committee considers the following report in relation to the objection received in order to resolve to: re-affirm the original proposal for an increase in Hackney Carriage and Private Hire fees and the date upon which they are to take effect or recommend a modification to the proposed fees.**

3. Executive Summary

- 3.1 On the 8th February 2010, as a consequence of a review of all licensing fees, which takes place annually, the Licensing Committee approved an increase of 10% in respect of Hackney Carriage and Private Hire fees. In response a member of the Hackney Carriage trade has an objection, which the Council is required to consider.

4. The Report

- 4.1 On the 8th February 2010 the Licensing Committee approved an increase of 10% in respect of Hackney Carriage and Private Hire licensing fees. A review takes place annually and details of the application forms part of the background documents attached to the rear of this file.
- 4.2 In accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 the new fee structure was advertised in the local press and a notice displayed at the offices of the Council giving 28 days within which objections could be made.
- 4.3 The consultation period ended on 18th March 2010 whereupon any objections being received and not withdrawn the Local Authority is forced to consider them and resolve that either the originally proposed fees stand or that the fees will in the light of the objection be modified.
- 4.4 On the 15th March 2010 in response to this process and therefore within the period specified an objection was received in the form of a letter from a member of the Hackney carriage trade. This letter forms part of the background documents attached to this report.
- 4.5 It should be noted that the notice specified that objections must be made to the Solicitor to the Council. The objection received was actually addressed to the Chief Executive and could therefore have been rejected. However, in the interests of even-handedness and impartiality the objection was accepted.
- 4.6 The gist of the objection covers ten points of issue together with a general criticism of the Council's licensing policy.
- 4.7 Points one and four argue that the function of raising fees is the role of the Chief Executive. The letter's author appears to believe that the Chief Executive is able to delegate this responsibility, which is challenged by the licensing department.
- 4.8 Point two appears to challenge the necessity to raise fees and argues that the same reasoning, with regard to increasing fees, has been used several times previously. This point suggests this "gives the impression of a false representation with the view to making a gain". The Committee should be aware that the control of Hackney Carriages and Private Hire Vehicles is a time consuming and costly exercise. As a consequence it is quite legitimate for a Local Authority to recover its costs in relation to this undertaking.
- 4.9 Point three refers to licensing policy, which has been in place for many years.

- 4.10 Points five, six and seven deal with the issue of testing vehicles and allege that they are conducted unlawfully at a locus not approved to carry out such tests and by unqualified individuals. This is challenged by the licensing department.
- 4.11 Point eight appears to be a rhetorical statement, which is not challenged by the licensing department.
- 4.12 Point nine deals with the issue of taxi ranks, which is not challenged by the licensing department.
- 4.13 Point ten deals with a matter of law covered by Section 48(1)(a)(ii) of the Local Government (Miscellaneous Provisions) Act 1976. This issue is not challenged by the licensing department.
- 4.14 The final three paragraphs of the letter cover three areas which include: unlawfully raised fees, vehicles not being lawfully tested and licensing an individual with a medical condition who receives a state pension.
- 4.15 The licensing department is unable to establish a coherent argument from any of the issues raised in the author's letter which gives any grounds for challenging the increase in the fee structure

5. Financial Implications

- 5.1 It is necessary that the fees are set to make cost recovery of the service but must not operate a surplus. It is anticipated that if charges are realistically set no surplus will be generated with the fee level set for 2010/11.
- 5.2 The fee to publish the notice in the Selby Times is £165.20.

6. Link to Corporate Plan

- 6.1 It is the corporate policy of the Council to promote the health and safety of those who live and work in the District.

7 How Does This Report Link to Council's Priorities?

- 7.0 It is Council priority to promote the health and safety of those who live and work in the District.

8 Impact on Corporate Policies

- 8.1 **Service Improvement** **No Impact**
- 8.2 **Equalities** **No Impact**
- 8.3 **Community Safety and Crime** **No Impact**

8.4 **Procurement** **No Impact**

8.5 **Risk Management** **No Impact**

8.6 **Sustainability** **No Impact**

8.7 **Value for Money** **Impact**
There is a necessity to increase fees to pay for the service provided.

9 **Background Papers**

9.1 Copy of Public Notice advertising fees

9.2 Copy of Letter of objection to increase in fee structure.

9.3 Copy of report detailing the application to raise the Hackney Carriage and Private Hire licensing fees presented to the Licensing Committee on 8th February 2010.

18.2.2010

**PUBLIC NOTICE
LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1976**

Notice is hereby given under Section 70 of the above Act that the Selby District Council proposes to vary the licence fees for Hackney Carriages, Private Hire Vehicles and Private Hire Operators as shown below, from 1st April 2010.

| | Current Fee | Varied Fee |
|------------------------|--------------------|-------------------|
| | £ | £ |
| Hackney Carriage | 153.00 | 168.50 |
| Private Hire Vehicles | 143.00 | 157.50 |
| Private Hire Operators | | |
| 1 - 4 Vehicles | 84.00 | 92.50 |
| 5 - 10 Vehicles | 89.50 | 98.50 |
| More than 10 Vehicles | 97.00 | 107.00 |

A copy of this Notice is available for inspection at Access Selby, 8-10 Market Cross Selby, YO8 4JS, and Area Office, Westgate Tadcaster LS24 9AB.

Objections to the varied fee must be made in writing to the Solicitor To The Council, Selby District Council, Civic Centre, Portholme Road, Selby, YO8 4SB within 28 days from the date of publication of this Notice.

L McShane
Solicitor To The Council.

18 February 2010.



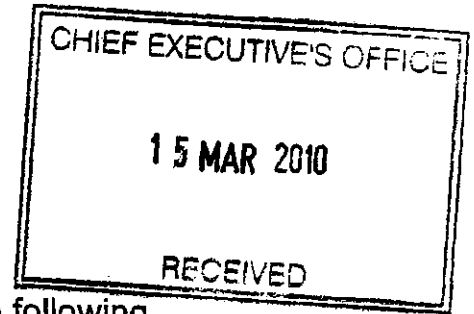
VAT Reg No: 7455-388-03

B. C. CABS

'Sararose'
Hazel Old Lane
Hensall
Near Goole
East Yorkshire
DN14 0QA

15th March 2010.

Licence fees.



This is to object to the increase in licence fees for the following reasons:-

1. This is a function bestowed on the Chief Executive and not a part time enforcement officer.

2. The same reasoning has been put forwarded for the last four/five years, thus gives the impression of a false representation with the view to making a gain.

3. The older vehicles are made to have tests three times per annum yet with the MoT's this amounts to four tests per annum.

4. The notification in the paper is intended for signature by the Chief Executive, if he gives this delegated authority why in heavens name is there a need for a Chief executive at all? (Section 234 (1) Local Government Act. 1972

5. The tests are supposed to be carried out by an MoT approved testing station, therefore all previous testing has been unlawful and therefore I intend to pursue a claim for all moneys returned in respect of previous testings.

6. The Council have been using unlawful practises in by charging for a test carried out by a mechanic employed by the Council's refuse collection company i.e Veola whom now do not have that contract.

7. Thus by paying £30 plus Vat and charging us well over £100 shows once again false representation with the intention of making a gain.

8. The hackney carriage and private hire department of Selby District Council is a separate department and all fees collected are to pay wages and keep the trade covered by legislation.

9. The council are supposed to adopt and supply a stand/ for every hackney carriage they so licence to ply for hire. That is a joke, I believe we have enough room for four vehicles ha. Ha, the bays were for six but the renaissance repainted for four.

10. Legislation also states that a licence must not be given to a private hire vehicle that might be mistaken for a hackney carriage.

These are my reasons to object once again to what I believe is an unlawful attempt to extract moneis from certain aspects of the trade, whilst failing to test vehicles properly in regards to the wheelchair accessibility condition.

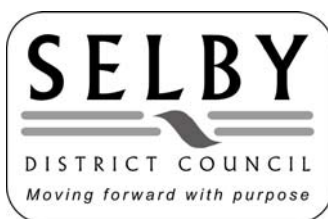
Finally I believe the council are operating a 2 tier transport system and that further, mine and no doubt others to resolve illegal attempts to obtain extra moneis from the trade.

Especially in light of the Licensing meeting on Monday which gave a saloon vehicle a Licence to a person who has been working for a local company has a medical condition and draws a state pension I believe, and you can see by the attached letter, something is very much a miss.

Yours faithfully

A handwritten signature in black ink that reads "B. Dennis". The signature is written in a cursive style with a large, prominent "B" and "D".

B.Dennis.



6 UW[fci bX'DUdYf:- "

Title: Licensing fees
To: Licensing Committee
Date: 8th February 2010
Service Area: Customer and Business Support
Author: Tim Grogan
Presented by: Tim Grogan

1. Purpose of Report

1.1 To bring to the attention of this Committee the review of licensing fees.

2. Recommendation(s)

2.1 **That Councillors consider the necessity for an increase in licensing fees.**

3. Executive Summary

3.1 Permission is sought to increase the current licensing fees.

4. The Report

4.1 A review of all licensing fees takes place annually. In 2009 the Licensing Committee approved an increase in licensing fees of 5%. The Licensing Department proposes an increase this year of 5% for all fees with the exception of Hackney Carriage and Private Hire fees, which it is proposed are increased by 10%.

4.2 Fees have been rounded to the nearest 50 pence or £1. A schedule is attached for consideration. It should be noted that Lotteries and Amusement permits were agreed at a previous meeting of the Licensing Committee in line with the Gambling Act.

4.3 Table 1 below shows the current estimated cost of Selby District Council's licensing function to be £153,930, which decreases to £148,890 in 2011/12

and rises to £152,420 in 2012/13. The estimated income for all three years is also shown and the net cost is revealed by subtracting the estimated income from the estimated costs.

Table 1

Summary of estimated licensing costs and income

| | 2010/11 | 2011/12 | 2012/13 |
|------------------|-----------|-----------|-----------|
| | £ | £ | £ |
| Estimated Costs | 153,930 | 148,890 | 152,420 |
| Estimated Income | (116,140) | (116,140) | (116,140) |
| Net Cost | 37,790 | 32,750 | 36,280 |

4.4 With regard to Hackney Carriage and Private Hire fees an increase of 5%, in line with other licence fees, would generate a further £1,790. However, it is proposed that fees should be raised by 10%, which would generate £3,580. The reason for this increase is to bring Selby District Council in line with neighbouring authorities and to allow more time to be allocated to the enforcement of legislation in this regard. Comparisons with other authorities in North Yorkshire show us to be the cheapest Council in all categories. As a consequence a review of these licences annually will prevent the Council from slipping further down the scale and, indeed, regain some lost ground and provide value for service.

5. Financial Implications

5.1 There are financial implications in connection with this report. The need to advertise the Hackney Carriage and Private Hire licensing fees is approximately £200. The projected increase in Hackney Carriage and Private Hire fees will raise additional revenue of £3,580, which rises to £4,410 when all fees are taken into consideration. Table 2 details of the additional fees estimated to be raised as a consequence of the changes.

Table 2

| | 2010/11 | 2011/12 | 2012/13 |
|--------------------------------|---------|---------|---------|
| | £ | £ | £ |
| Additional Licence Fees Raised | 4,410 | 4,850 | 5,340 |

6. Link to Corporate Plan

6.1 It is the Corporate Policy of the Council to promote the health and safety of those who live and work in the District.

7 How Does This Report Link to Council's Priorities?

7.0 It is a Council priority to promote the health and safety of those who live and work in the District.

8 Impact on Corporate Policies

8.1 **Service Improvement** **No Impact**

8.2 **Equalities** **No Impact**

8.3 **Community Safety and Crime** **No Impact**

8.4 **Procurement** **No Impact**

8.5 **Risk Management** **No Impact**

8.6 **Sustainability** **No Impact**

8.7 **Value for Money** **Impact**

There is a necessity to increase fees to pay for the service provided.

9 Background Papers

9.1 Schedule of licence fees, with the exception of Hackney Carriage and Private Hire licences, showing current fees and those proposed.

9.2 Schedule of Hackney Carriage and Private Hire licences

9.3 Fees of neighbouring authorities