

Licensing Committee

Thursday 17 September 2015 at 10.00 am

**To be held at at the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillors David Barker, Nikki Bond, Jack Clarkson, Neale Gibson, Dianne Hurst, George Lindars-Hammond, Roy Munn, Anne Murphy, Josie Paszek, Vickie Priestley, Denise Reaney, Mick Rooney, Geoff Smith, Zoe Sykes and Cliff Woodcraft

PUBLIC ACCESS TO THE MEETING

The Licensing Committee carries out a statutory licensing role, including licensing for taxis and public entertainment.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday.

You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

Recording is allowed at Licensing Committee meetings under the direction of the Chair of the meeting. Please see the website or contact Democratic Services for details of the Council's protocol on audio/visual recording and photography at council meetings.

If you would like to attend the meeting please report to the First Point Reception desk where you will be directed to the meeting room.

If you require any further information please contact Harry Clarke on 0114 273 6183 or email harry.clarke@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**LICENSING COMMITTEE AGENDA
17 SEPTEMBER 2015**

Order of Business

- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest**
Members to declare any interests they have in the business to be considered at the meeting.
- 5. Minutes of Previous Meetings**
To approve the minutes of the meetings held on:-

31st March;

30th June; and

4th and 25th August, 2015
- 6. Review of Plying for Hire Policy**
Report of the Chief Licensing Officer
- 7. Private Hire and Hackney Carriage Drivers' Licences**
Report of the Chief Licensing Officer
- 8. Private Hire Operators' Licences**
Report of the Chief Licensing Officer

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ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest (DPI)** relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.

- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously.

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Gillian Duckworth, Director of Legal and Governance on 0114 2734018 or email gillian.duckworth@sheffield.gov.uk.

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Licensing Committee

Meeting held 31 March 2015

PRESENT: Councillors David Barker, Nikki Bond, Neale Gibson, George Lindars-Hammond, Anne Murphy, Josie Paszek, Vickie Priestley, Geoff Smith, Cliff Woodcraft and Joyce Wright

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1. APOLOGIES FOR ABSENCE

1.1 Apologies for absence were received from Councillors Olivia Blake and Denise Reaney.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. DETERMINATION OF LICENCE FEES

4.1 The Chief Licensing Officer submitted a report on the Licensing Fees Review (Determination of Fees) for the 2014/15 Financial Year, and attaching, as appendices, a breakdown of the Licensing Service's budget for 2015/16, proposed fees for the different licensing services and functions, details of the statutory fees and a schedule of fees relating to the safety of sports grounds.

4.2 In response to questions raised by Members, Steve Lonnia stated that there were six ongoing cases regarding the Commons Registration Act, and until these matters were in their final stages, it was difficult to predict the financial impact on the budget, however, the budget was kept under constant review and a report would be brought to the Committee if necessary. Steve Lonnia also stated that there had been no need to consult with licence holders regarding the fees for the financial year as there had been no changes, but Members felt that consultation, rather than negotiation, could be done via the website, inviting comment.

4.3 **RESOLVED:** That the public and press and attendees be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

4.4 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the report.

4.5 At this point in the proceedings, the meeting was re-opened to the public and press and attendees.

4.6 RESOLVED: That (a) in the light of the contents of the report now submitted and following the representations now made, authority be given for the Chief Licensing Officer to impose the fees for 2014/15 in respect of the various functions of the Licensing Service, as detailed in the report now submitted;

(b) an enforcement report be drafted detailing the current position including staff numbers, working patterns, how enforcement is managed, whether it be proactive or reactive and what the service could provide, would additional staff benefit and what would the cost implications be; and

(c) a Committee meeting be held to discuss the report before the end of July 2015.

5. MINUTES OF PREVIOUS MEETINGS

5.1 The minutes of the meetings of the Licensing Sub-Committee held on 8th, 17th, 22nd and 31st July, 5th, 7th, 11th and 12th August, 1st, 2nd, 9th, 18th, 25th and 30th September, 2nd, 9th, 15th, 16th, 21st, 23rd, 28th and 30th October, 4th, 10th, 25th and 27th November, 9th, 16th and 18th December, 2014, 6th, 8th, 13th, 15th and 27th January, 10th February, 3rd and 10th March, 2015, and the Licensing Committee held on 21st August, 2014, were approved as correct records.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 30 June 2015

PRESENT: Councillors David Barker (Chair), Anne Murphy and Cliff Woodcraft

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1. APOLOGIES FOR ABSENCE

1.1 There were no apologies for absence received.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED) - SPEARMINT RHINO, 60 BROWN STREET, SHEFFIELD, S1 2BS

4.1 The Chief Licensing Officer submitted a report to consider an application for the renewal of a Sexual Entertainment Venue Licence made under Schedule 3, Section 10, of the Local Government (Miscellaneous Provisions) Act 1982, as amended, in respect of the premises known as Spearmint Rhino, 60 Brown Street, Sheffield, S1 2BS.

4.2 Present at the meeting for Part One of the hearing were Philip Kolvin QC (Counsel for the Applicants), Robert Sutherland (Solicitor for the Applicants), John Specht and Andy Foster (for the Applicants), Alison Boydell, Judith Dodds, Shelley Roche-Jacques and Bridget Kelly (Objectors), Matt Proctor (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing, as set out in Appendix E to the report.

4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that written representations had been received from 11 interested parties, four of whom were in attendance and would address the Sub-Committee, and details of all the representations were attached at Appendix 'B' to the report.

4.5 Judith Dodds stated that Spearmint Rhino was located in a key gateway to the City Centre, and within the City's Cultural Industries Quarter. It was a three-minute walk from the main bus and train stations, as well as a number of cultural venues, which were open to the public, such as art spaces, the Site Gallery and the Showroom Cinema. Ms Dodds was particularly interested in art and the cinema

and, as a member of the Showroom Cinema, visited it frequently, resulting in her having to walk past Spearmint Rhino on a regular basis. She always felt uncomfortable, as well as being mindful of her personal safety as, in her opinion, she considered that due to the nature of the activity inside the venue, it was likely to attract some men who had a bad attitude towards women, in that they may get the sense that women were, in some way, available and there for their pleasure. She considered the situation worse at night-time, when there was a chance that they had consumed alcohol. Ms Dodds specifically queried why such a venue was situated very close to the Sheffield Hallam University Students' Union Hubs, where there was likely to be a large number of young people, some of whom would not be of adult age. She referred to the City Council's aim to create and sustain a quality City Centre environment that was clean, safe and welcoming and created a sense of pride and ownership for all users, and considered that Spearmint Rhino had the opposite effect. The venue was also located close to cafes and restaurants, residential accommodation, Sheffield Hallam University and its Students' Union, Freeman College for young people with special needs, the University Technical College for 14 to 18 year olds and two organisations which provided help and support for disadvantaged and/or vulnerable women. This area attracted high numbers of visitors, with some venues having a national or international reputation. Ms Dodds referred to the City's Destination Management Plan, which aimed to develop Sheffield as an internationally important tourist destination by concentrating on developing a vibrant City Centre, by ensuring the Centre had the highest concentration of visitor-related facilities and services. The Plan also aimed to make Sheffield an attractive and successful place to live, work and invest, and she considered that having a lap-dancing club in this area would not help to promote the aims of the Plan. In addition, Sheffield's City Centre Masterplan calls for "the Centre to be a safe, inclusive and welcoming meeting point for all age groups, cultures and classes, reflecting our vision for a fairer city", including the possibility of developing Festival Square as an exhibition space. Ms Dodds made reference to the City's Sexual Entertainment Venue licensing policy, relating specifically to its obligations under the Human Rights Act and the pressure being placed on the lap dancers at the venue who, in her opinion, were being forced to perform in a sexually stimulating way, in order to earn money. She indicated that the contractual obligations of the lap dancers were sufficiently restrictive such as to render them in a state of sexual servitude, in contravention of the Act, an Act which the Council had stated it had considered when drafting its Sexual Entertainment Venue licensing policy. Ms Dodds concluded by stating that, although the Council claimed to work for gender equality and communities that experienced discrimination, supporting the renewal of this licence indicated that it was acceptable that access to women's bodies could be bought and thus, directly contravenes this claim.

- 4.6 Alison Boydell, by means of a presentation, referred to the location of Spearmint Rhino, specifically its location within the Cultural Industries Quarter which had undergone considerable urban regeneration since the venue had opened. Reference was also made to the numerous other venues in the vicinity, which included a number of organisations which supported vulnerable women. She also referred to a number of annual events held at venues in the area, which included Doc fest, Showcomotion, Off the Shelf, Children's Media Conference, Sheffield Design Week and Grand Depart. Ms Boydell stated that it was unsuitable having

such a venue in this area, which attracted so many visitors, referring specifically to research which showed how street harassment of women was greater in the vicinity of such venues. She referred to the City's Purple Flag Status which, in part, had been gained due to its reputation as a safe city, and stated that having this venue in such close proximity to public transport stops in the Centre was at odds with the granting of such status. The two women's support services within extremely close proximity to the venue resulted in vulnerable women having to pass the venue, on route, to access services to help them feel safe and recover from the devastating effects of male violence was highly inappropriate and potentially detrimental. Spearmint Rhino was also very close to the University Technical College and again, this was wholly inappropriate and conveyed damaging messages to girls and boys, of an impressionable age, whilst they were trying to navigate the hyper-sexualised culture in which we live. Ms Boydell referred to the Council's Sexual Entertainment Venue Licensing Policy, which indicated that the Council wished to support both the local community and businesses by ensuring that sexual entertainment venues were properly managed and that they should integrate, where possible, into the local community. She considered that Spearmint Rhino did not integrate at all with any of the other venues in the immediate vicinity. Ms Boydell went on to refer to the Sheffield Destination Management Plan for a Vibrant City 2012-15 and how the City Centre had been transformed over the last 15 years, which relied on things such as culture and leisure, hospitality, retail and public realm and, again, stated that the operation of a lap dancing club in this area of the City Centre was wholly inappropriate. She then referred to two screen shots of the Spearmint Rhino Twitter account pages, indicating that such images were totally incompatible with the Cultural Industries Quarter. She reported on findings relating to violence against women and girls, which indicated that images, in the media, of violence against women, in particular those that depicted rape or sexual slavery, as well as the use of women and girls as sex objects, including pornography, were factors contributing to the continued prevalence of such violence. Ms Boydell referred to recent comments made by Dr Alan Billings, South Yorkshire Police and Crime Commissioner, who stated that 'macho culture' was one of the causes of child sexual exploitation, indicating that in general, lap dancing clubs attracted such types of males, and this view was supported by a number of comments displayed on the Sheffield Forum relating to the nature of the venue. Ms Boydell concluded by displaying a photograph, taken at 1.00 pm on 25th June 2015, which showed the area next door to Spearmint Rhino, known as Festival Square, as totally disused, and to a letter from a local resident, who expressed his concerns in terms of the adverse effect of the venue on the area.

- 4.7 Bridget Kelly, Chief Executive, SHIFT, stated that her organisation worked with young people aged 16 to 18 who, prior to attending SHIFT, had been designated as being Not in Employment, Education or Training (NEET). She stated that, as well as Spearmint Rhino being situated in the heart of the Cultural Industries Quarter, the venue was located very closely to SHIFT, resulting in vulnerable children having to walk past the venue. It was accepted that the venue would not be open when they walked past, but it was considered that they were still being exposed to a 'Gentleman's Club', and the notion that women were available and sexual services, in the form of entertainment, could be purchased. It was believed that this offered poor role modelling of adult behaviour to such young people. Ms

Kelly made reference to the new Ofsted Common Inspection Framework and the Equality Act 2010, referring specifically to issues regarding gender inequality, and indicating that Spearmint Rhino was an illustration of gender inequality, as well as it being a commercial activity that not only objectivised women, but also made that objectification part of a commercial transaction and therefore, commodification of women. Whilst she accepted that the majority of students' footfall occurred outside the times the venue was open, she considered that they were still being exposed to a message that men buy sexual entertainment from women which, in essence, was exploitative. Reference was also made to the name Spearmint Rhino which, she considered, had sexual connotations. Ms Kelly reported that SHIFT's aim was to agenda its students an aspiration for self-improvement through education and to promote emotional wellbeing, and considered that the subliminal message of Spearmint Rhino did not support the agenda clearly laid out by Ofsted in the new Common Inspection Framework (June 2015) in relation to gender equality or wellbeing or indeed, the City Council's agenda that all groups of people were able to enjoy the City Centre equally. She considered that the venue reflected a poor context for the cultural activity of the City in that it presented an outdated and rather downbeat image, that was out of sync with modern life and sensibilities.

4.8 Shelley Roche-Jacques, a lecturer at Sheffield Hallam University, stated that a number of students at the University had indicated that they felt uncomfortable about the presence of Spearmint Rhino so close to the Students' Union, and that herself and some students also felt unhappy about the way the club was promoted as being part of the normal, mainstream, nightlife of Sheffield. She and a number of students felt that the normalisation and mainstream promotion of these venues was very harmful to women, and helped to create a dehumanised view of women, sending out the message that women's bodies were for male consumption. She also referred to a weekly events newsletter, printed by Spearmint Rhino and made available for students, which included details of various entry and drinks offers at the venue throughout the week. She considered that, in the context of a society in which there was widespread violence against women, and in the light of the recent National Union of Students research findings regarding 'lad culture' in universities, that this was something the City Council should be taking very seriously.

4.9 Although the following evidence was provided, at the approval of the Chair, in accordance with the hearing procedure, the evidence could not be taken into consideration by the Sub-Committee as it was deemed to be new, and had not been made available to the applicants before the meeting. Ms Roche-Jacques referred to comments from representatives of Sheffield Hallam University, including Professor Philip Jones, Vice-Chancellor, and Emily Connor, President of Sheffield Hallam Students' Union, expressing their objections to the application. She went on to make further reference to statements provided by Helen Mort and Susannah Evans, poets and organisers of the South Yorkshire Poetry Festival, expressing their objections and concerns with regard to the location of Spearmint Rhino at the heart of the Cultural Industries Quarter. Reference was made to a further statement provided by Clive Belgeonne, Education Advisor, Development Education Centre (South Yorkshire), Centre for Learning, Development and Citizenship, indicating that the Centre was based on Leadmill Road, very close to Spearmint Rhino, and that as well as the venue being out of character with the rest of the area, the Centre viewed a Gentleman's Club as part of the process of

maintaining unequal gender relations. Mr Belgeonne expressed concerns at the fact that some men entering or leaving the club after drinking, and aroused, could put visiting teachers and young people at risk, and make them feel unsafe when they left the Centre.

- 4.10 In response to questions from Members of the Sub-Committee, it was reported that many buildings in the area were not there when Spearmint Rhino opened, in 2002, including the Students' Union and the University Technical College. There was also very little residential accommodation in the area at this time. It was not possible to provide any hard evidence in terms of incidents of sexual abuse or violence linked to men attending Spearmint Rhino, although there had been an incident where two girls had allegedly been sexually abused in the Leadmill by some men who had come from the venue. It was also pointed out that only 15% of rapes were reported, therefore it was highly likely that there had been incidents, but for whatever reason, had not been reported. Due to the issues faced by a number of people who attended one of the support organisations in the area, relating in some cases, to sexual abuse or other similar issues, they had been instructed not to walk past or use the area immediately surrounding Spearmint Rhino in order to stop them being influenced in any way.
- 4.11 Present at the meeting for Part Two of the hearing were Philip Kolvin QC (Counsel for the Applicants), Robert Sutherland (Solicitor for the Applicants), John Specht and Andy Foster (for the Applicants), Matt Proctor (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).
- 4.12 Philip Kolvin provided a brief history of the venue, indicating that it opened as Spearmint Rhino in 2002, having formerly been a nightclub, and had traded successfully since that time. The venue employed around 85 people and opened at 22:00 hours each night of the week. In terms of the external appearance of the building, Mr Kolvin stated that there was no sexual imagery or flashing lights which would attract attention, the entrance area was regularly repainted to maintain its appearance and no one was able to see in through the windows. Due to the numbers of people attending the venue, there was never a queue outside and the only people regularly seen outside the building, during opening hours, were two security staff who, not only provided security for the venue, but for the surrounding area also. Crime levels on Brown Street and in the surrounding area were very low. In terms of the internal operation of the venue, there would usually be around 100 customers on a busy weekend night, with as few as 20 people attending on a quiet night during the week. The management worked strictly in accordance with the licensing conditions attached to the licence and there was a very strict set of codes in terms of what the dancers and customers were allowed to do. There were security staff and CCTV in order to monitor any problems and, as a result of this, the venue experienced very few problems. The management attended Pub Watch meetings and were members of the City Centre Retailers Against Crime (CRAC) radio scheme, which was a crime reduction radio scheme, which allowed the venue to communicate with the Police and other local traders to reduce crime and disorder. The venue's management also worked closely with the local Police and the Licensing Authority. Mr Kolvin stated that as well as there very rarely being any trouble inside the venue, the management had not received any

complaints from neighbours living or working nearby, nor had the Police ever reported an assault or other crime in connection with anyone leaving the club. He also stated that there was no evidence of any investor or developer being deterred from investing or developing in the area as a result of Spearmint Rhino being there. He stressed that there had been major development in terms of the Cultural Industries Quarter over the last few years, which therefore showed the venue had not acted as a deterrent in any way. In terms of the level of representations, Mr Kolvin stated that 11 objections represented a very low proportion and stressed that there had been no objections from the Police, Environmental Health, the Licensing and Planning Authorities or students from Sheffield Hallam University. In response to the representations made at the hearing, Mr Kolvin stated that the vast majority of the information provided, specifically relating to public safety and the prevention of public nuisance, was anecdotal and therefore, could not be taken into consideration by the Sub-Committee. With reference to the City's Purple Flag status, Mr Kolvin made the point that such status had been awarded at the time Spearmint Rhino was trading in the City Centre. He stated that the management were not dismissive of the objectors' views, accepting that not everyone was in favour of lap dancing clubs, but indicated that, if the application was granted, they would continue to work closely with the Licensing Authority, as well as continue trading with the minimum of fuss. In terms of the adverse effect of the club on students, Mr Kolvin stated that a number of students visited the venue, taking advantage of the various themed nights and associated drinks offers. He added that no objections had been received from the Showroom cinema, nor had any evidence been provided to show that customers stayed away from the cinema due to its close proximity to Spearmint Rhino. As well as there being no objections from the University Technical College, the point was also made that the club did not open until 22:00 hours, when all the students would have gone home. There had also been no objections from the Elements Society and, although reference had been made, no evidence had been provided to show that there had been a link between sexual entertainment venues and child sexual exploitation.

- 4.13 In response to questions from Members of the Sub-Committee, Mr Kolvin stated that the term 'Gentleman's Club' was used as it was considered neutral, and did not include any wording of a sexual nature. Whilst the management had introduced themselves to the various groups and organisations in the locality, when the venue opened in 2002, no specific work had been undertaken in terms of raising the awareness of the sexual objectification of women and the potential of sexual abuse by men towards women both inside and outside the venue. The management had, however, provided an opportunity for representatives of SAFE to meet with the dancers and provide them with the opportunity of discussing any issues of concern they had regarding their employment. As stated previously, there had been very few problems or complaints from the lap dancers or the female customers as a result of the strict security and code of conduct. It was also pointed out that the club did not advertise for dancers, and that all the girls visited the club, looking for employment, on their own free will. There was no evidence provided to show that the young people who visited SHIFT were harmed or affected in any way by the existence of Spearmint Rhino in the locality, particularly as the club will be closed when they would most likely be walking past. The club's management had not been approached by any groups or organisations in the locality to discuss any concerns or problems they had with the venue, although

contact details would be on the club's website and anyone was free to visit the venue to talk to management. The smoking area for the club was situated to the right of the front doors, when facing the venue.

- 4.14 Philip Kolvin stated that he had nothing further to add in terms of a summary.
- 4.15 Matt Proctor outlined the options open to the Sub-Committee in relation to the application.
- 4.16 The meeting was then closed to all parties in accordance with the agreed hearing procedure.
- 4.17 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.18 RESOLVED: That the Sub-Committee agrees to grant the application for the renewal, for a period of 12 months, of the Sexual Entertainment Venue Licence, in respect of the premises known as Spearmint Rhino, 60 Brown Street, Sheffield, S1 2BS.

(The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)

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SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 4 August 2015

PRESENT: Councillors David Barker (Chair), Roy Munn and Zoe Sykes

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from Councillor Anne Murphy.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 4 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to hackney carriage and private hire licensing.

4.2 The applicant in Case No. 52/15 attended the hearing and addressed the Sub-Committee.

4.3 The applicant in Case No. 53/15 attended the hearing and addressed the Sub-Committee.

4.4 The licence holder in Case No. 54/15 attended the hearing and addressed the Sub-Committee.

4.5 RESOLVED: That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
52/15	Application for a Private Hire Vehicle Licence	(a) Grant a licence for the normal term of 12 months with a Section 75(2) exemption notice, such notice to be carried in the vehicle at all times when used by the applicant for the purposes stated and

		(b) officers be granted delegated power to renew the licence upon expiry.
53/15	Application to renew a Hackney Carriage and Private Hire Driver's Licence	(a) Grant a licence for the normal term of 18 months and (b) the applicant be advised of the seriousness of failing to declare any offences which may occur during the period of his licence.
54/15	Review of a Hackney Carriage and Private Hire Driver's Licence	Issue a written warning as to the licence holder's future conduct in the light of the offence and conviction now reported.

SHEFFIELD CITY COUNCIL

Licensing Sub-Committee

Meeting held 25 August 2015

PRESENT: Councillors David Barker (Chair), Roy Munn and Cliff Woodcraft

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1. APOLOGIES FOR ABSENCE

1.1 An apology for absence was received from Councillor Vickie Priestley.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on items 4 and 5 on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - PERSONAL LICENCE APPLICATION

4.1 The Chief Licensing Officer submitted a report to consider an application for a Personal Licence made under Section 117 of the Licensing Act 2003 (Case No. 56/15).

4.2 Present at the meeting were the Applicant, Andrea Marsden and Matt Burdett (South Yorkshire Police), Objectors, Georgina Hollis (Licensing Enforcement and Technical Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

4.4 Georgina Hollis presented the report to the Sub-Committee and it was noted that representations had been received from South Yorkshire Police and were attached at Appendix 'B' to the report.

4.5 Andrea Marsden made representations on behalf of South Yorkshire Police, referring to the applicant's offences and convictions. She made specific reference to the fact that the applicant had been a prolific offender over a long period of time, and stressed the serious nature of some of the offences. Ms Marsden pointed out that the most serious offence had been carried out whilst the applicant was on licence for a previous offence. Ms Marsden also responded to a number of questions raised by Members of the Sub-Committee.

- 4.6 The applicant addressed the Sub-Committee, stating that he accepted that he had a very poor criminal record, but that he was now a reformed character, and was trying to make something of his life. He stated that there was little likelihood of him offending again and that applying for a Personal Licence would give him something else to focus on and make something of his life. He also responded to a number of questions raised by Members of, and the Solicitor to, the Sub-Committee, and Georgina Hollis.
- 4.7 RESOLVED: That the attendees involved in the application for a Personal Licence be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.8 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.9 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.10 RESOLVED: That the application for a Personal Licence be rejected on the grounds that, in the light of the representations now made and the number and serious nature of the offences now reported, the Sub-Committee considered that granting a Personal Licence in this case (Case No. 56/15) would undermine the crime prevention licensing objective.

5. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - INDIVIDUAL CASES

- 5.1 The Chief Licensing Officer submitted details in respect of two cases relating to hackney carriage and private hire licensing.
- 5.2 The licence holder in Case No. 57/15 attended the hearing and addressed the Sub-Committee.
- 5.3 The applicant in Case No. 58/15 attended the hearing with a relative and they both addressed the Sub-Committee.
- 5.4 RESOLVED: That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
57/15	Review of a Hackney Carriage and Private Hire Driver's Licence	Immediately revoke the licence under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, as amended by Section 52 of the Road Safety Act 2006, on the grounds that, based on the information now reported, the Sub-Committee is satisfied that the licence holder poses an immediate and ongoing risk to public safety.

58/15	Application for a first Hackney Carriage and Private Hire Driver's Licence	Consideration of the application be deferred to the next available meeting of the Sub-Committee, following notification of the conclusion of the applicant's Court hearing.
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SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 17th September 2015

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Illegal Plying for hire

Category of Report: OPEN

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Report of the Chief Licensing Officer and Head of Licensing to the Licensing Committee on 17th September 2015

Private Hire & Hackney Carriage Licensing – Review of Plying for Hire Policy

1.0 Purpose

1.1 To review and approve the Councils Policy in relation to Plying for Hire.

2.0 Background

2.1 The last review of this policy took place in June 2012 and I have attached a copy of the policy for your attention and information at “Appendix A”.

2.2 Members need to be aware that there has been significant legislative change since the last review of this policy was undertaken. These changes will potentially exacerbate the problem of plying for hire significantly.

2.3 Members will be aware of the Deregulation Act 2015 that will permit operators to sub-contract bookings to operators licensed in other authorities.

2.4 Members will be aware that problem with illegal plying for hire are already causing problems within the City and is creating an excessive amount of work.

3.0 What is plying for hire / illegal plying for hire?

3.1 Plying for hire entails the “making of the provision of a vehicle and a driver available for immediate hire”. This is also known as public hire. Drivers of hackney carriages (taxis) can legally ply for hire, drivers of other vehicles (including private hire vehicles) cannot.

3.2 Illegal plying for hire occurs when a person driving a vehicle other than a licensed hackney carriage takes a fare that is not pre-booked (there are limited exceptions e.g. a bus on a designated route). It is irrelevant whether the driver has or hasn't a licence to drive a hackney carriage as the offence is plying for hire without a (hackney carriage vehicle proprietors) licence.

3.3 The driver of a hackney carriage can only ply for hire in the area in which they are licensed. It is illegal for them to ply for hire outside the area in which they are licensed i.e. the driver of a hackney carriage licensed by North East Derbyshire District Council would be committing an offence should they ply for hire in Sheffield and vice versa.

3.4 Illegal Plying for hire also throws up the possibility of a prosecution for no insurance. The penalty for illegal plying for hire is a maximum £2500. No insurance offences carry a minimum 6 penalty points on a drivers licence.

3.5 Enforcement observations suggest that it is very likely that a large proportion of illegal plying for hire is committed by a relatively small number of drivers. As these drivers can, and do, charge as much as they wish and they can carry out several illegal journeys each night, illegal plying for hire can be very profitable for the offender.

4.0 Why is illegal plying for hire a serious offence?

- 4.1 The greatest danger to the public is from vehicles and drivers that hold no licences at all as they will not have undergone any of the usual tests or checks. The drivers may have criminal convictions and their intentions may be solely to engage in serious criminal activity e.g. sexual offences, robbery against those that get into their vehicle.
- 4.2 With respect to private hire vehicle drivers, other than the insurance implications there are other and much more serious actual and potential consequences of this illegal activity.
- 4.3 No legal contract. A person hiring a hackney carriage enters into a contract with the driver of that vehicle. A person booking a private hire vehicle through a licensed operator (as is the legal requirement) enters into a contract with the operator **not the driver**. It is the operator that determines the fare for the journey and is responsible, in the first instance, for resolving any problems that may arise. The lack of any legal contract deprives the passenger of those legal rights afforded to them by a contract and can have the following effects:-
- There is no control over the fare charged and the driver will demand as much as he sees fit. From complaints that have been received over the years it seems that drivers illegally plying for hire usually charge considerably more than those working legally. This is a regular cause of disputes arising between the passengers and drivers, sometimes ending in the abandonment or assault of the passenger.
 - Should a problem arise during the journey (and they often do) then there is no recourse other than a complaint to the Police or to the Council Licensing Service. As the investigation of any complaint in these circumstances will of necessity involve the criminal act of plying for hire without a licence then an aggrieved person will be asked to provide a witness statement and has to be prepared to attend court as a witness should a prosecution ensue. Unless they have suffered serious detriment it is unlikely that a passenger in a vehicle illegally plying for hire will be prepared to register a complaint.
- 4.4 A private hire operator is required to keep detailed records of job bookings and the vehicles dispatched to take the booking. Should a problem arise during a journey that has been properly booked then the Police and/or Licensing have immediate access to those records and will be able to identify the vehicle and driver involved within minutes. Where there is no job booking then there is no record of the journey or of the vehicle and driver involved. It is therefore often very difficult, or just not possible to correctly identify the vehicle and driver after an incident involving a driver illegally plying for hire has occurred.
- 4.5 There is also a difficulty in instances where the driver is not suspected of other offences as drivers are often witnesses to incidents. A driver that is himself committing an illegal act is less likely to come forward as a witness to an incident.
- 4.6 Most illegal plying for hire occurs at night and when often it can be difficult for the passengers to provide a useful description of either the vehicle or the driver involved. Drivers that do have criminal intentions know that the chances of them being detected are even further reduced.
- 4.7 Offences committed against passengers by licensed drivers in Sheffield are uncommon but in the large majority of cases the offender has picked up the passenger while illegally plying for hire.

- 4.8 Lost property - the loss of mobile phones, purses etc. in taxis and private hire vehicles is commonplace. The record of drivers working legally is good in terms of drivers identifying passengers to return lost goods to or handing them in to a police station. Complaints from the public about unreturned goods left in vehicles and drive-offs where a driver has taken goods (jewellery, leather jackets etc.) as surety while the passenger goes to fetch money to pay the fare usually relate to journeys that have started with an illegal ply for hire.
- 4.9 The largest problem in Sheffield in recent years has been the large number of North East Derbyshire and Rotherham licensed private hire vehicle drivers illegally plying for hire. This is expected to get much worse following the Deregulation Act 2015.
- 4.10 There is now the problem with out of town hackneys that can be of a make and model similar to a Sheffield Private Hire vehicle which leads to problems of identification to the public
- 4.11 Out of town vehicles have less knowledge of Sheffield and are unfamiliar with routes. This is known to have been the cause of disputes arising between the driver and passengers and the abandonment of passengers in areas that they do not know and/or assaults.
- 4.12 The other benefit to drivers is that any fare gained is “tax free” as no record is made of this work and it is not traceable. They are also at liberty to charge any fare they desire for this hiring.
- 4.13 The effect on legitimate services and drivers is considerable. The obvious loss is to hackney carriage drivers. Drivers of hackney carriages invest significant amounts of money into purpose built vehicles that are designed to carry in reasonable comfort citizens of and visitors to Sheffield including those that have various forms of disability. These vehicles also have a separate passenger compartment that offers security to both the passenger and the driver. Fares from people that hail them on the street form a significant part of their income. Illegal plying for hire deprives them of income and reduces the incentive for others to invest in such vehicles.
- 4.14 A less obvious, but just as serious problem is in relation to properly licensed private hire vehicle drivers that are trying to work legally. Customers book a private hire vehicle through a licensed operator and the operator dispatches a vehicle to undertake the booking. At night in the city centre there is a fair chance that when the (legitimate) driver arrives his fare will have already been picked up by a driver illegally plying for hire. That leaves the legitimate driver with no fare to pick up. This could occur to a private hire vehicle driver several times in any night and as they are only paid for completed journeys a “no pick up” means time and fuel lost with no income.

5.0 Public attitude

- 5.1 Public attitudes to the dangers of illegal plying for hire are a significant problem. Most people will accept that there are risks involved in getting into a vehicle that is not a taxi or a pre-booked private hire vehicle. However, many people just want to get home quickly and don't consider what the consequences may be!
- 5.2 Licensing Officers have on occasions intervened to warn unaccompanied women not to get into unlicensed vehicles. Unfortunately the most common response is that they don't care and they just want to go home. Another not uncommon response is verbal abuse towards officers.

- 5.3 Some members of the public seem to think that Licensing Officers are on the streets in the early hours of the morning for no purpose other than to prevent them getting home. These can be unhelpful, abusive and on occasions threatening.
- 5.4 Some members of the public seem to think (wrongly) that it is far cheaper to get in a private hire vehicle that is illegally plying for hire than to get a hackney carriage.
- 5.5 There have been a number of publicity campaigns to inform the public about safe travel home using taxis and private hire vehicles and to warn them of the dangers of getting into unlicensed vehicles. These seem to have had little impact on the problem except for short periods following a serious incident e.g. a sexual assault on a passenger in a vehicle illegally plying for hire.
- 5.6 Officers will, however, continue to take advantage of any opportunities that arise to publicise this issue.

6.0 Enforcement Activity

- 6.1 Enforcement takes on many guises and officers can now use many ways and different types of enforcement.
- 6.2 The best results gained come from the use of officers as passengers, these being either Council staff or officers from neighbouring Authorities with whom we have good working relationships.
- 6.3 Video and CCTV evidence have been previously used with some effect. This is more difficult now that the Councils CCTV monitoring has been outsourced to a private company. There are many protocols to go through to obtain copies of footage that may provide evidence.
- 6.4 There are many areas within the city boundaries that are a current cause for concern such as the City Centre and many of the smaller district centres such as Woodseats, Chapletown etc that are all hot spots for such illegal activity.
- 6.5 The impact of the Deregulation Act in relation to licensed vehicles and in particular the impact on cross border working and plying for hire will require the Service to review its resources and increase numbers of staff.

7.0 Financial implications

- 7.1 Members will be aware that as the Licensing Authority we have a statutory duty to enforce the provisions of the legislation, licence conditions and any other associated regulations and the costs of such are recoverable through licence fees.
- 7.2 Although we are not certain to what extent illegal plying for hire may increase as a result of the Deregulation Act 2015 and recent court judgements we do expect a further influx of non- Sheffield licensed vehicles and an increase in illegal plying for hire. If we decide that we require additional resources to tackle these ever increasing issues then there will also have to be an increase in fees.

- 4.2 The costs associated with the securing of a conviction are quite high and if full costs are not awarded to the Council by the courts then it becomes a costly exercise. The usual period for a person who pleads not guilty to this sort of offence from date of offence to court hearing is between six and nine months.
- 4.4 There are no additional costs to the Council arising from the approval of the attached policy. However, if members request that licensing undertake more enforcement to try and tackle the problem with plying for hire, additional staffing resources will be required.

8.0 Consultation

- 8.1 A draft of this report was circulated to representatives of the trades associations on the 28th August 2015 and was discussed at a consultation meeting with the representatives of the trade associations on the 2nd and 10th September 2015.
- 8.3 Trade Associations have been invited to attend this meeting.

9.0 Recommendation

- 9.1 That Members approve this Policy and in doing so confirm that;
- i) Because of the potentially serious consequences of the offence, offenders will be prosecuted (where there is considered to be sufficient evidence to secure a conviction and it is in the public interest to do so);
 - ii) Officers must endeavour to recover the costs of prosecutions from those convicted in order to reduce the financial burden on licensed drivers who work within the law;
 - iii) Officers refer any current licensed drivers to the Licensing Sub-Committee at the point that there is sufficient evidence for the licensing service to submit a file for legal proceedings to be brought against that driver.
 - iv) Unless there are exceptional circumstances offenders should expect to have any licences they hold immediately revoked and/or any application for a licence refused.
 - v) Councillors' confirm that they deem that this offence is a matter of public safety and any revocation of a licence would be done under Section 52 Road Safety Act 2006, which amends Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. This means any revocation would be with immediate effect.
 - vi) The use of officers as passengers be endorsed as a method of enforcement, and instruct Chief Licensing Officer and Head of Licensing to carry on conducting enforcement activity against this illegal activity.
 - vi) A copy of this report, the resulting resolution and policy is made available to the Courts when relevant cases are being considered.
 - vii) That "Delegated Authority" be given to the Chief Licensing Officer & Head of Licensing to organise enforcement operations in response to intelligence and/or information received that brings to his attention a problem/issue with plying for hire in any area of the City.
 - viii) That the wording of this policy be include in the proposed new policy documents that are currently been drafted ready for consultation.

10.0 Options

- 10.1 That members approve and confirm the policy as set out in paragraph 9.1 above as recommended by the Chief Licensing Officer and Head of Licensing.
- 10.2 That members approve and confirm the policy set out above with any amendments agreed by the Licensing Committee.
- 10.3 That members defer the report for further consideration.
- 10.4 That members reject the policy and retain the existing policy as set out at Appendix A.

Steven Lonnia
Chief Licensing Officer
Head of Licensing Service
August 2015

“APPENDIX A”

Current Illegal Plying for hire policy

- i) Because of the potentially serious consequences of the offence, offenders will be prosecuted (where there is considered to be sufficient evidence to secure a conviction and it is in the public interest to do so);
- ii) Officers must endeavour to recover the costs of prosecutions from those convicted in order to reduce the financial burden on licensed drivers who work within the law;
- iii) Officer’s refer any current licensed drivers to the Licensing Board at the point that there is sufficient evidence for the Officers to submit a file for legal proceedings to be brought against that driver.
- iv) Unless there are exceptional circumstances offenders should expect to have any licences they hold revoked and/or any application for a licence refused.
- v) Councillors’ confirm that they deem that this offence is a matter of public safety and any revocation of a licence would be done under Section 52 Road Safety Act 2006, which amends Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. This means any revocation would be with immediate effect.
- vi) The use of officers as covert passengers be endorsed as a method of enforcement, and instruct Chief Licensing Officer to carry on conducting enforcement activity against this illegal activity.
- vi) A copy of the report and the these resolutions are made available to the Courts when relevant cases are being considered.

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SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 17th September 2015

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Driver licenses (duration) and fees.
Deregulation Act 2015

Category of Report: OPEN

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Report of the Chief Licensing Officer and Head of Licensing to the Licensing Committee on Thursday 17th September 2015

Deregulation Bill 2015

Private Hire & Hackney Carriage Drivers Licenses

1.0 Purpose of Report

- 1.1 To review the current policy in relation to the duration of Private Hire and Hackney Carriage Drivers licences.
- 1.2 To determine the fees to be charged for new licences.

2.0 The Legal Situation

- 2.1 Section 10 of The Deregulation Bill 2015 comes into force on the 1st October 2015. The section amends Section 53 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.2 The Government have introduced the Deregulation Bill as part of their commitment to cut bureaucracy in business. One of the main changes that it has introduced is with regards to Private Hire & Hackney Carriage Drivers Licences to amend Section 53 as follows;

(1) (a) Every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.

(1) (b) Notwithstanding the provisions of the Public Health Act 1975 and the Town Police Clauses Act 1889, every licence granted by a district council under the provisions of the Act of 1847 to any person to drive a hackney carriage shall remain in force for three years from the date of such licence or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.

3.0 Background

- 3.1 The last review of the driver's policy took place in February 2012. The resolution of the Sub Committee at that time was to make no changes to the new driver's licences issued for probationary periods, of 9, 12, months prior to issuing a full licence for 18 months where appropriate.
- 3.2 In Sheffield the standard licence period has been 18 months for over 15 years and we undertake a DBS check every 3 years (2 licenses).

- 3.3 There is currently a condition on all private hire drivers' licences that the applicant / licence holder has to submit details of any convictions, cautions, or driving offences, within 14 days of the date of conviction during the term of the licence.
- 3.4 Members will be aware that we are currently drafting a new Private Hire & Hackney Carriage Drivers Policy that will be ready for formal consultation in September.
- 3.5 Members must note that applications will still be referred to Licensing Committee that do fulfil the existing criteria or meet our current referral policy and these will be dealt with on a case by case basis and may still be granted shorter term licences.

4.0 Consultation

- 4.1 A draft of this report was circulated to representatives of the trades associations on the 28th August 2015 and was discussed at a consultation meeting with the representatives of the trade associations on the 2nd and 10th September 2015
- 4.2 Representatives of the trade associations have been invited to attend this meeting and advised that, subject to the consent of the Chair, they may address the meeting.
- 4.3 Any written representations received will be made available at the meeting.

5.0 Financial Implications

- 5.1 There are significant financial implications to the Council arising from this report. If members determine to move to a three year licence this would see a financial impact every 18 months.
- 5.2 The initial impact would commence around April 2017 when we would have a significantly reduced number of renewals if all licences are granted for three years. The reduction in income would continue every 18 months until the level of new applications and renewals began to balance out.
- 5.3 The service will have to consider the impact from these changes in legislation each year as it determines the new budget and fees.
- 5.4 Section 53, Sub-section (2) Notwithstanding the provisions of the Act of 1847 states, "a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such fee as they consider reasonable with a view to recovering the costs of issue and administration"
- 5.5 Attached at "Appendix A" is a table of proposed fees for Private Hire & Hackney Carriage Drivers Licences.

6.0 Fair Charging Policy

- 6.1 It is agreed that fees and charges should be set in a consistent way across the Council and that we are transparent about the fees we expect people to pay.
- 6.2 Licence fees must also be set in accordance with the relevant individual piece of legislation; the Provision of Services Regulations 2009; and any other associated legislation / regulations.
- 6.3 The fees have been set so that they enable the service and the Council to deliver on our priorities and also on the principle of the polluter pays where it is appropriate.
- 6.4 The Council intends to recover its reasonable costs of the Licensing Service with regards to the administration and enforcement of the terms and conditions of each of the above individual licensing systems. Each licensing system has its fee calculated separately to ensure we are only recovering the costs in relation to that individual system.

7.0 Case Law

- 7.1 It is clear from R v Manchester City Council Ex p. King, The Times, April 3, 1991 that the power to set fees does not permit the Council to raise revenue generally.
- 7.2 It has also been established in many cases such as R-v-The Greater London Council Ex Parte The Rank Organisation Limited where it was stated “the level of fees was a matter of policy and as long as the total fee income did not exceed the cost of the licensing system the court should not and could not see to interfere”.
- 7.3 The case of R (Hemmings and Others) v Westminster City Council has changed the way we must consider setting fees and what legitimate costs we can recover.

Keith J upheld that the procedures the costs of which could be recharged to licensees are;

“..... the steps which an applicant for a licence has to take if he wishes to be granted a licence or to have his licence renewed, and when you talk about the cost of those procedures, you are talking about the administrative costs of vetting the application and the costs of investigating their compliance with the terms of the licence. There is simply no room for the costs of authorisation procedures to include costs which are significantly in excess of those costs”.

- 7.4 Members should note that the Council can only recover the actual costs of delivering each individual system from the fees it charges applicants/licensees. It cannot make surplus from fees and must not use fees to subsidise any other licensing system or to offset other budgets or raise income generally.
- 7.5 The overarching principle and starting point for the setting of fees is that the Local Authority must only recover its reasonable costs of administering that individual system and enforcing the terms and conditions of those licences where applicable and that no irrelevant factors are taken into account when setting such fees.

8.0 Recommendations

- 8.1 That the Licensing Committee instruct the Chief Licensing Officer & Head of Service to make arrangements for the grant of a three year licence as from 1st October except in cases where licensing committee determine otherwise.
- 8.2 That Licensing Committee approve the fees at "Appendix A".
- 8.3 That members make no further decisions upon any driver policy matters until the new policy is presented to the Licensing Committee later this year.

9.0 Options

- 9.1 To instruct the Chief Licensing Officer & Head of Service to grant 3 year licences as from the 1st October 2015 except in circumstances where shorter term licences are thought appropriate on a case by case basis.
- 9.3 To consider the proposed fees set out at "Appendix A" and determine the appropriate level of fees to be charged as from 1st October 2015.

Steven Lonnia
Chief Licensing Officer & Head of Licensing
Licensing Service
Staniforth Road Depot
Sheffield
S9 3HD

Appendix A

Private Hire & Hackney Carriage Drivers Licences

Existing Fees

SYSTEM	DURATION	FEE	PRE COSTS	POST COSTS
New Application (with DBS)	18 months	£205	£169	£36

SYSTEM	DURATION	FEE	PRE COSTS	POST COSTS
Renewal (with DBS)	18 months	£130	£101	£29
Renewal (Without DBS)	18 months	£86	£65	£21

Proposed Fees (Including DBS on application)

SYSTEM	DURATION	FEE	PRE COSTS (including DBS)	POST COSTS
New Application	12 months	£209	£169	£40
	24 months	£269	£169	£100
	36 months	£329	£169	£160

SYSTEM	DURATION	FEE	PRE COSTS (including DBS)	POST COSTS
Renewal Application	12 months	£141	£101	£40
	24 months	£201	£101	£100
	36 months	£261	£101	£160

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SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 17th September 2015

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Private Hire Operators licenses
(duration) and fees. Deregulation Act 2015

Category of Report: OPEN

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Report of the Chief Licensing Officer and Head of Licensing to the Licensing Committee on 17th September 2015

Deregulation Bill 2015

Private Hire Operator Licences

1.0 Purpose

- 1.1 To review the Councils Policy in relation to the duration of a Private Hire Operators Licence.
- 1.2 To determine the fees payable on application for the grant / renewal of a Private Hire Operators Licence.

2.0 The Legal Situation

- 2.1 Section 10 and 11 of The Deregulation Bill 2015 comes into force on the 1st October 2015. The sections amend Section 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.2 The Government have introduced the Deregulation Bill as part of their commitment to cut bureaucracy in business. One of the main changes that it has introduced is with regards to Private Hire Operators and their Licences and amends Section 55 as follows;

(2) Every licence granted under this section shall remain in force for five years or such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.

55 A (1) A person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle may arrange for another person to provide a vehicle to carry out the booking if –

- (a) the other person is licensed under section 55 in respect of the same controlled district and the sub-contracted booking is accepted in that district;
- (b) the other person is licensed under section 55 in respect of another controlled district and the sub-contracted booking is accepted in that district;
- (c) the other person is a London PHV operator and the sub-contracted booking is accepted at an operating centre in London; or
- (d) or the other person accepts the sub-contracted booking in Scotland.

3.0 Background

- 3.1 Members should note that licences for Private Hire Operators have always generally been issued for 12 months
- 3.4 The deregulation bill that was enacted within the last parliament will affect the way that operators in England and Wales can run their business.

- 3.5 Section 11 of the Deregulation Act 2015, will allow any licensed private hire operator within England and Wales to subcontract any job booking they receive to any other licensed private hire operator in the country.
- 3.6 There are also the current problems that have arisen from private hire operators taking advantage of using licensed hackney carriages (wherever they are licensed) as private hire vehicles.

4.0 Consultation

- 4.1 A draft of this report was circulated to representatives of the trades associations on the 28th August 2015 and was discussed at a consultation meeting with the representatives of the trade associations on the 2nd and 10th September 2015
- 4.2 Representatives of the trades associations have been invited to attend this meeting and advised that, subject to the consent of the Chair, they may address the meeting.
- 4.3 Any written representations received will be made available at the meeting.

5.0 Financial Implications

- 5.1 There are significant financial implications to the Council arising from this report. If members determine to move to a five year licence this would see a negative financial impact for four years following the next twelve months renewals.
- 5.2 The initial impact would commence around October 2016 when we would have a significantly reduced number of renewals, if all licences are granted for five years. The reduction in income would continue for four years until the existing licences come back around for renewal.
- 5.3 The service will have to consider the impact from these changes in legislation each year as it determines the new budget and fees.
- 5.4 Section 70, Sub-section (1) Subject to the provisions of sub-section (2) of this section, a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as sufficient in the aggregate to recover in whole or in part –
- (a) The reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose determining whether any such licence should be granted or renewed;
 - (b) The reasonable cost of providing hackney carriage stands; and
 - (c) Any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.
- 5.5 A schedule of the current fees and proposed fees is attached at "Appendix A".

6.0 Fair Charging Policy

- 6.1 It is agreed that fees and charges should be set in a consistent way across the Council and that we are transparent about the fees we expect people to pay.
- 6.2 Licence fees must also be set in accordance with the relevant individual piece of legislation; the Provision of Services Regulations 2009; and any other associated legislation / regulations.
- 6.3 The fees have been set so that they enable the service and the Council to deliver on our priorities and also on the principle of the polluter pays where it is appropriate.
- 6.4 The Council intends to recover its reasonable costs of the Licensing Service with regards to the administration and enforcement of the terms and conditions of each of the above individual licensing systems. Each licensing system has its fee calculated separately to ensure we are only recovering the costs in relation to that individual system.

7.0 Case Law

- 7.1 It is clear from R v Manchester City Council Ex p. King, The Times, April 3, 1991 that the power to set fees does not permit the Council to raise revenue generally.
- 7.2 It has also been established in many cases such as R-v-The Greater London Council Ex Parte The Rank Organisation Limited where it was stated “the level of fees was a matter of policy and as long as the total fee income did not exceed the cost of the licensing system the court should not and could not see to interfere”.
- 7.3 The case of R (Hemmings and Others) v Westminster City Council has changed the way we must consider setting fees and what legitimate costs we can recover.

Keith J upheld that the procedures the costs of which could be recharged to licensees are;

“..... the steps which an applicant for a licence has to take if he wishes to be granted a licence or to have his licence renewed, and when you talk about the cost of those procedures, you are talking about the administrative costs of vetting the application and the costs of investigating their compliance with the terms of the licence. There is simply no room for the costs of authorisation procedures to include costs which are significantly in excess of those costs”.

- 7.4 Members should note that the Council can only recover the actual costs of delivering each individual system from the fees it charges applicants/licensees. It cannot make surplus from fees and must not use fees to subsidise any other licensing system or to offset other budgets or raise income generally.
- 7.5 The overarching principle and starting point for the setting of fees is that the Local Authority must only recover its reasonable costs of administering that individual system and enforcing the terms and conditions of those licences where applicable and that no irrelevant factors are taken into account when setting such fees.

8.0 Recommendations

- 8.1 That the licensing committee instruct the Chief Licensing Officer & Head of Service to make arrangements for the grant of a five year licence as from 1st October except in cases where licensing committee determine otherwise.
- 8.2 To approve the fees as set out in "Appendix A"

9.0 Options

- 9.1 To instruct the Chief Licensing Officer & Head of Service to grant 5 year licences as from the 1st October 2015 except in circumstances where shorter term licences are thought appropriate on a case by case basis.
- 9.2 To consider the proposed fees set out at "Appendix A" and determine the appropriate level of fees to be charged as from 1st October 2015.

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Appendix A

Private Hire Operators Licences

Existing Fees

SYSTEM	FEE	PRE COSTS	POST COSTS
New Application	£670	£243	£427
SYSTEM	FEE	PRE COSTS	POST COSTS
Renewal (0 – 50)	£460	£205	£255
Renewal (51+)	£670	£243	£427

Proposed Fees

SYSTEM	DURATION	FEE	PRE COSTS	POST COSTS
New (0-50)	1 Year	£563	£243	£320
New (51+)	1 Year	£670	£243	£427
New (0-50)	2 Year	£763	£243	£520
New (51+)	2 Year	£1070	£243	£827
New (0-50)	3 Year	£963	£243	£720
New (51+)	3 Year	£1470	£243	£1227
New (0-50)	4 Year	£1163	£243	£920
New (51+)	4 Year	£1870	£243	£1627
New (0-50)	5 Year	£1363	£243	£1120
New (51+)	5 Year	£2270	£243	£2027

SYSTEM	DURATION	FEE	PRE COSTS	POST COSTS
Renewal (0 – 50)	1 Year	£415	£205	£210
Renewal (51+)	1 Year	£670	£243	£427
Renewal (0 – 50)	2 Year	£615	£205	£410
Renewal (51+)	2 Year	£1070	£243	£827
Renewal (0 – 50)	3 Year	£815	£205	£610
Renewal (51+)	3 Year	£1470	£243	£1227
Renewal (0 – 50)	4 Year	£1015	£205	£810
Renewal (51+)	4 Year	£1870	£243	£1627
Renewal (0 – 50)	5 Year	£1215	£205	£1010
Renewal (51+)	5 Year	£2270	£243	£2027

