



Review of Taxi Licensing

SUMMARY

- 1.1 At the meeting on 18 May 2016, Council approved a series of proposals for a review of taxi licensing sub-committee decision making processes and procedures.
- 1.2 Following an extensive public consultation exercise, a review has been undertaken and a series of proposals and recommendations are set out within this report to meet the mandate given to officers which I have been consulted upon and now make recommendations to Council for adoption.

RECOMMENDATION

- 2.1 To extend to 30 June 2017 the previous mandate of 18 May 2016, approving constitutional changes to transfer the Licensing Committee's taxi licensing policy-making powers, to determine the principles of an administrative licensing system, to Council.
- 2.2 To instruct officers to review and present a further report to Council, not later than 12 months after first implementation of these proposals, that considers amongst other matters the operational effectiveness of the measures introduced.
- 2.3 To approve the introduction of a licensing administration system for the council in accordance with the principles of the 'Second Proposal' together with the implementation of the minimum application threshold criteria set out in Paragraphs 4.17 – 4.20, by 30 June 2017.

2.4 To refer the following proposals, which were consulted upon as part of the recent consultation exercise and which are not intrinsically linked to the Second Proposal's minimum application threshold, to the Licensing Committee for consideration, namely:

- (i) age limits (paragraph 4.29);
- (ii) private hire operator Condition 11(a) (paragraph 4.30);
- (iii) online renewals of drivers licences (paragraph 4.31);
- (iv) MOT for vehicles (paragraph 4.32);
- (v) third party DBS checks (paragraph 4.33);
- (vi) dual badges (paragraph 4.35);
- (vii) a mandate confirmation of having passed a Basic Skills Test (paragraph 4.36);
- (viii) dress code (paragraph 4.37);
- (ix) vehicle proprietorship (paragraph 4.38);
- (x) vehicle modifications (paragraph 4.40);
- (xi) hybrid vehicles luggage space (paragraph 4.41);
- (xii) medicals (paragraph 4.42);
- (xiii) resources (paragraph 4.43).

2.5 To consider the attached equality impact assessment (Appendix 12).

REASONS FOR RECOMMENDATION

- 3.1 To provide, in the public interest, a proactive and proportionate response to the public interest report findings, so far as they relate to taxi licensing administration, which also gives assurance to the public at large.
- 3.2 To provide an objective approach to taxi licensing administration and decision making that is consistent, fair and transparent to both the public and the trade alike.
- 3.3 In the interest of continuity and consistency, recommendation 2.1 affords an opportunity for the measures required to give effect to the preferred proposal to be developed and approved along similar lines to those implemented on 18 May 2016, ready for introduction between now and 30 June 2017.
- 3.4 The recommendation at paragraph 2.4 is made on the basis that Council's mandate on 18 May 2016, in divesting Licensing Committee of its powers, was limited only to decision making on such changes as are integral to the introduction of a new administrative licensing process. Licensing Committee effectively retains all of its other constitutional policy making powers. As the issues consulted upon and addressed in the paragraph are policy points, the power to determine what should or should not be introduced remains vested in the committee.

SUPPORTING INFORMATION

- 4.1 At its meeting on 18 May 2016 Council considered a report from the Cabinet Member for Regulatory Services setting out proposals for a review of taxi licensing sub-committee decision making processes and procedures.

4.2 At the meeting, Council resolved to:

- approve constitutional changes to transfer the Licensing Committee's taxi licensing policy-making powers, to determine the principles of an officer-led licensing administration, to Council;
- approve consultation on the introduction of an administrative licensing system for the council in accordance with two alternative proposals;
- delegate to the Director of Communities, Environment & Regulatory Services, following consultation with the Cabinet Member for Regulatory Services, authority to finalise the details of the consultation exercise;
- approve officers undertaking a consultation exercise on the proposed changes based on a timetable that was set out within the report; and
- note that the results of the consultation exercise will be considered by Council for a final decision in the future to introduce, with effect from 28 November 2016 (subject to the consultation process), a new administrative decision making process taking into account the outcome of consultation and, if necessary and/or applicable, the outcome of an equality impact assessment.

4.3 In accordance with the timetable approved by Council on 18 May 2016, officers developed best practice proposals which were initially considered by Licensing Committee on 14 July 2016. These were subsequently approved for consultation by the Director of Communities Environment and Regulatory Services and the Cabinet Member for Regulatory Services. A 12-week consultation with the taxi trade and public then followed and concluded on 24 October 2016. In agreement with the Cabinet Member, the questions asked related to not only the two alternative proposals but also to related procedural matters and other issues of direct relevance to the taxi trade in Derby.

4.4 A copy of the consultation questionnaire is attached at Appendix 2. A breakdown of the responses received is attached at Appendix 3. The questionnaire also allowed respondents to make additional comments on the proposals and these are attached at Appendix 4. A summary of the additional comments made is provided at Appendix 5. Some taxi organisations also elected to write to the Council setting out their views on the proposals and other taxi-related issues; these too were considered in making today's proposals and are attached at Appendices 6 to 9.

4.5 In accordance with the timetable agreed, all the responses received from the consultation exercise were due to have been considered by Licensing Committee at its meeting on 10 November 2016. That meeting unfortunately was adjourned and at the time of putting this report together, I therefore had no additional representations from the committee to consider. With Council's permission, should any representations materialise prior to today's meeting, it would be my intention to provide an update at the meeting.

- 4.6 Two alternative approaches to transferring to an administrative decision making process were consulted upon.

The First Proposal

- 4.7 This approach relies on the introduction of an officer-based system for determining licensing applications, based on established current taxi licensing sub-committee processes, but with officers standing in the members' place. The proposal is to replace the current system of member-based taxi licensing sub-committee hearings with one that will be chaired by the officer (or any other to whom the role may be further sub-delegated) identified to carry out this role within the amended scheme of delegations which Council would need to approve should this be resolved by Council as the preferred approach. A copy of the proposed optional delegation scheme to officers accompanies this report at Appendix 10.
- 4.8 The officer panel will determine individual applications at a licensing hearing that will include at least one other licensing officer who has not previously been involved in the administration of the relevant application to which the hearing relates. The officer panel will be advised by a legal officer and supported by a business support officer. The format of the meeting will be the same as is currently in place. A member of the licensing team will present the report and the applicant/licence holder and any witnesses of theirs will be invited to attend the hearing to make representations. Where the basis of the referral arises from a consumer complaint, the complainant along with any witnesses will similarly be invited to attend to make representations. A decision notice will be issued following the conclusion of the panel meeting and any appeal that may follow will continue to be made directly to the magistrates' court.
- 4.9 When determining individual applications, the delegated officer will adopt the principles set out in the current taxi licensing sub-committee member guidelines. To that end, Council would need to adopt a policy for implementation to support this proposal that secures that references to 'members' or 'sub-committee(s)' within the existing guidelines should be read as including the 'delegated officer' or 'officer panel' respectively, where applicable.
- 4.10 For the reasons set out in the next paragraph, I have not made a recommendation to this effect.
- 4.11 In my deliberations with the Director of Communities, Environment & Regulatory Services, it soon became apparent that the need for consistent and transparent decisions would not be best served by proposing this option as the preferred one for Council to adopt because, to the extent that it still affords a significant degree of discretion in decision making, there would remain scope for inconsistent decisions based on the same or similar facts.

- 4.12 Taxi Licensing Sub-Committee has historically worked on the principle of being provided with as much discretion as is permissible, to enable it to fully consider the factual circumstances of individual cases and arrive at informed decisions based on supporting representations by the parties involved. The existing member guidelines are drawn up to reflect this reality. Such wide degree of flexibility is not considered by officers to be a necessary or assistive criterion for officers involved in administrative decision making, the need for certainty, transparency and the observance of and adherence to uniformly applicable rules being more necessary and assistive factors. The risk of failure of any transfer to officers should officers simply be subsumed into the member sub-committee role, without more, becomes very real.
- 4.13 There is one other fundamental point to be made. Sub-committees are quasi-judicial in nature and it is the need to adhere to the due process requirements of such proceedings that introduces the high degree of subjectivity that has historically resulted in inconsistent decisions such as those that were the subject of the recent public interest report. Introducing a process that retains scope for such subjectivity to continue, whether by members or by officers in accordance with this proposal, would in my view be inadvisable. By way of contrast, officers should properly only make decisions based on clear delegation of responsibilities to them. Member's strategic role as local law makers is preserved to the extent that they retain the right, through policy, to determine what the basis/remit of those powers should be.
- 4.14 For these reasons, to the extent that the recommendations I make in this report, as set out in paragraphs 3.1 and 3.2, would remain compromised, I am not recommending to Council that the First Proposal be adopted.

The Second Proposal

- 4.15 This approach proposes a firm commitment from Council for a transition of decision making powers from Licensing Committee to officers on 30 June 2017. The commitment would give officers the opportunity to develop, through to conclusion, the necessary prerequisites to secure the robustness of the principles and processes needed to allow them to implement, from the agreed date, a new system for making clear, consistent and robust decisions in the public interest.
- 4.16 Amongst the prerequisites referred to in the preceding paragraph will be the need to introduce a new penalty points system, a minimum requirement application threshold, changes and modifications to certain current practices and housekeeping around the current imposition of age limits and right to work legislation. It is important that members understand, in considering this report and its proposals, that these measures would require approval as a combined package of measures in order for the proposal to be successfully implemented. The details of each constituent part of the 'package' are individually considered in paragraphs 4.17 to 4.27.
- 4.17 The available staffing resource required to service the new processes will need to be reviewed. (see Paragraph 4.43)

Penalty Points System

- 4.18 The effectiveness of the new administrative process will require the introduction of a points based system that would be equally applicable to both existing and prospective licence holders, with a threshold maximum number of Derby points (12) above which, as applicable, a licence will be administratively suspended or revoked. The points system will take account of all possible driving and criminal convictions and/or conduct/behavioural transgressions and will be kept under periodic review to identify any additions that need to be made to it as legislation and case law changes. It will be made available on the Council website for all current and prospective licence holders to consult. The proposed penalty points table is set out at Appendix 11.

Minimum Application Threshold

- 4.19 The proposal to transfer administrative decision making powers to officers offers an opportunity to refresh a number of operational practices. A significant number of licensing authorities across the country apply or are moving towards implementing minimum application criteria before an application is accepted and processed, for which an initial fee, separate to the licence fee, is chargeable. An application that does not address the criteria prerequisites will be deemed 'incomplete' and returned to the applicant without a refund of the application fee; applications that meet the threshold will proceed to determination, and must be supported by a non-refundable licence fee.
- 4.20 In future, for an application to be deemed 'complete' it must comprise of:
- (a) the application fee and, subject to the threshold being met, a separate licence fee
 - (b) a signed application (or renewal) form, complete with statutory declaration
 - (c) a valid Disclosure and Barring Service (DBS) certificate/online status check authorisation
 - (d) a clear Group 2 medical clearance
 - (e) a valid Driver and Vehicle Standards Agency (DVSA) certificate or equivalent assessment certification to drive a hackney carriage or private hire vehicle
 - (f) confirmation of having passed a prescribed safeguarding training course
 - (g) proof of right to work in the UK
 - (h) a relevant Certificate of Good Conduct (if applicable)
 - (i) a DVLA drivers licence mandate
 - (j) confirmation of having passed the Council's prescribed Knowledge Test
- 4.21 Subject to Council approval of the proposal, officers will begin to work on a new style application form to support the changes proposed.

Group 2 Medical

- 4.22 Adopting the Group 2 medical standard prescribed by the DVLA, for hackney carriage and private hire drivers licensed by the Council, recognises the fact that licensed drivers are on the road for significantly longer hours than non-trades/private car drivers, and that they may have to provide assistance to passengers. These reasons underline the existing acceptance that hackney carriage and private hire drivers should have more stringent medical standards than those of a normal car driver. This is because the expectation of the public is that journeys they contract with drivers or firms for will be conducted safely and that the driver is medically fit to undertake the journey. Adopting the DVLA standard ensures there is consistency of medical standards amongst service drivers, similar to the standards in place for bus and HGV drivers.

Driver Tests – New Applicants

- 4.23 Accepting that the Council wishes to satisfy itself that licence applicants/holders achieve a higher driving standard, it is proposed that new applicants for hackney carriage or dual badge licences will be required to have successfully undertaken the DVSA's Hackney Enhanced Wheelchair Accessible Vehicle Test and Taxi Wheelchair Exercise Test or equivalent, prior to application. New private hire licence applicants will be required to undertake the Hackney and Saloon Vehicle and Private Hire Saloon Vehicle Test or equivalent, prior to application.

Driver Tests – Existing Licence Holders

- 4.24 For existing licence holders, the points system identified at paragraph 4.18 earlier will incorporate a facility for referral to sit the applicable test detailed in the preceding paragraph where the background to any referral of a complaint to officers for consideration arises out of a proven complaint about the holder's driving standard. Any subsequent refusal or omission to undertake the test itself will also incur additional points. It is proposed to also retain the existing BTEC penalty sanction, where the background to any referral of a complaint to officers for consideration arises out of a proven complaint about the holder's conduct or standard of service, in tandem with the new points system. The NVQ qualification requirement for existing drivers, which must be taken within three years of first obtaining a licence, will also remain in place; however, my proposal would see the period within which the certificate should be produced to the Council reduced to one year. This too will be linked to the penalty points system should the holder not provide appropriate certification that they have undertaken the training within the prescribed period.

Safeguarding Training

- 4.25 The Jay and Casey reports into child sexual exploitation have had a profound and continuing impact on licence holders across the country, the latter in particular identifying a nation-wide common thread between taxi licensing and child sexual exploitation. The Council has already introduced changes to address a number of identified shortcomings. However, more can and still needs to be done to increase safeguarding awareness within the trade, and place safeguarding at the forefront of existing and aspiring licence holders minds. It is proposed that all new applicants (drivers and operators) will be required to successfully undertake an approved safeguarding training course prior to applying to be licensed. Existing drivers and operators who are currently licensed will be required to undertake similar safeguarding training prior to the next renewal of their licences, again without exception. Where the operator is a corporate entity, the company will be expected to nominate an individual in a position of authority (e.g. a director or manager with day-to-day responsibility for decisions), capable of implementing the 'corporate mind', to undertake the training; they will do this on the licence renewal form without which the application will not be accepted as complete.

Good Conduct Certificate

- 4.26 A criminal record check is an important safety measure and is widely required by local authorities as part of the application process. Officers consider that it is important that checks are also conducted on applicants who come from overseas, including EU nationals, in relation to whom the British Police/DBS would not have access to the equivalent quality of information. To achieve this purpose, it is proposed that new overseas drivers should be required to provide a 'Certificate of Good Conduct', authenticated by their relevant embassy. All Certificates of Good Conduct must be in English and paid for by applicants.

DVLA Driver Licence Mandate

- 4.27 The paper counterpart to the photo card driving licence is no longer issued by the DVLA. In order to be able to check the status of a driver's licence, a necessary prerequisite at the point of application, it is proposed that drivers will be required to sign up to this mandate service to enable the Council to view individual driving history. This is necessary to determine whether or not drivers remain safe and lawfully able to continue to drive licensed vehicles as part of the regulatory work undertaken by the Council's Licensing Team. It will also be used to confirm that an applicant has held a full driving licence for the statutorily prescribed period of at least twelve months prior to application.

Other related procedural matters and issues of direct relevance

- 4.28 As part of the process of reviewing current practices, a number of practice principles, policies and licence conditions have also been considered. In a number of areas, the need for a review of current practices has been identified and the opportunity to consult so extensively with the trade about the two alternative proposals also afforded an opportunity to consult on a number of these changes which the review has identified as necessary and/or appropriate; however, as I set out earlier in this report, these matters were not integral to the implementation of the Second Proposal. With the exception of the proposal in relation to age limits which is based on legal advice, members are invited, on an individual basis, to consider the merit in adopting as policy the further proposals set out below within paragraphs 4.30 – 4.42.

Age Limit

- 4.29 It is a statutory requirement that a drivers licence will not be issued to any person who, at the time of application, has not held a full driving licence for a continuous period of one year – section 51(1)(b) (private hire drivers) and section 59(1)(b) (hackney carriage drivers), Local Government (Miscellaneous Provisions) Act 1976. To support the statutory intent, in Derby, the Council mandates that licences will only be issued to applicants over the age of 21. There are strong reasons to believe that maintaining this minimum age requirement could be discriminatory and the proposal therefore is to do away with the minimum age requirement. The requirement for prospective licence holders to demonstrate a higher degree of proficiency generally, as set out in paragraphs 4.23 – 4.25, and 4.27, should allay any concerns about the amount of experience to drive of an applicant under the age of 21.

Revision of Private Hire Operator Condition 11(a)

- 4.30 It has become clear that the current exemption in Condition 11(a)(xii) of the Council's Private Hire Operator Conditions creates the potential for a safeguarding loophole. In its current guise, it provides that bookings made by email or text are exempted from recording the picking up and setting down points of the journey and the name and address of the hirer. It revolves around a requirement to record the destination point in operator records and whether or not the provision, as it currently exists, creates the potential for abuse in the event that a dispute arises between a driver/operator and a passenger. Closing off the loophole, in addition to the obvious safeguarding concern that arises, also protects the driver/operator from allegations of impropriety. The proposal as consulted upon is to delete in its entirety, Condition 11(a)(xii)

Online Renewals of Driver Licences

- 4.31 In line with a number of other local authorities, the Council proposes to introduce online renewals for driver licences, the benefits of which would be that drivers would no longer be required to attend the council offices for renewal. The proposal is expected to drive efficiency by quickening the current administrative regime.

MOT for Vehicles

- 4.32 At present, subject to a vehicle meeting the requirements set out in the Council's vehicle licence conditions and specifications, an approved garage issues the proprietor with a 'Certificate of Compliance', not an MOT certificate. This certificate confirms the vehicles compliance with the vehicle conditions and specification and is used for licensing purposes effectively as a replacement for an MOT certificate. This can create potential issues for a vehicle proprietor, such as being able to apply for vehicle tax and car insurance online, so it is proposed that the use of a 'Certificate of Compliance' is discontinued and approved garages are mandated to issue the compliant vehicle with an MOT Certificate and a Vehicle Compliance Sheet. In order for a vehicle to be licensed by the Council, both documents will need to be submitted.

DBS checks to be administered by a 3rd party

- 4.33 The DBS process for hackney carriage and private hire drivers has changed over the last few years and the Council has made further changes to the process recently, following the introduction of deregulation legislation. Currently, DBS applications are countersigned by an officer from the Licensing Team which means a new applicant or existing driver must attend the council offices for this to be done. There are a number of other organisations that can undertake this service, often online, and so it is proposed that the DBS counter-signatory process for hackney carriage and private hire driver licences in Derby is carried out by one of these organisations through direct arrangement with the applicant. The Council will continue to provide detailed information to applicants about the specific level and type of DBS check required. It will be the responsibility of the applicant to ensure that this is done. The proposal offers more flexibility and control over the process to the applicant. To the extent that I am recommending the Second Proposal to Council for adoption, it also creates an effective separation between the officers and the trade, avoiding any scope for conflicts to arise where the trade might otherwise consider the procedure of a DBS application has been compromised by officers.
- 4.34 It has also become apparent that although like drivers, private hire operators are also required to satisfy the Council that they are fit and proper, DBS checks are not routinely carried out when they apply for a licence. This will change so that all private hire operator's licence applicants, and existing licence holders at renewal, will be required to carry out a DBS check.

Dual Badges

- 4.35 In line with a number of other local authorities, the Council proposes to introduce the option for a dual badge. Currently the Council does not issue a dual badge but does issue separate hackney carriage drivers' licences and private hire drivers' licences to a small number of individuals. A dual badge will allow a hackney carriage driver the flexibility to be able to work as a hackney carriage driver or concurrently as a private hire driver attached to a private hire operator. It will only be available as an option to licensed hackney carriage drivers, but not to licensed private hire drivers because of the statutory distinctions in the provisions that allow hackney carriages to undertake private hire work. An appropriate fee for a dual badge will be calculated.

Basic Skills Test

- 4.36 Related to and extending on from the mandatory safeguarding training, is a proposal to introduce a basic skills test for all new driver applicants. As well as the safeguarding element, the test will include BKSB Level 1 Functional Skills assessments in Maths, English and ICT. This will help improve standards for all drivers and ensure continued public safety. For existing drivers, the proposal is for this to be completed before the renewal of their drivers licence. The intention is to identify a local college/training provider to administer the test.

Dress Code

- 4.37 In the interest of driving up standards and reinforcing a positive professional image of the hackney carriage and private hire trade, who are often the first point of contact with visitors to the city, views on the introduction of a mandatory dress code were sought as part of the consultation exercise. The intention was to initiate sensible debate about the appropriateness of drivers being seen to be driving in hooded tops, vests or other apparel that do not convey an appropriate professional image. Licensing Committee may want to consider encouraging individual drivers and/or employers of drivers and/or trade associations to be pro-active in considering the merit in introducing a voluntary code. They may also want to reserve the right to review the ability of the trade successfully introducing such measures.

Vehicle Proprietorship

- 4.38 The transfer of vehicles between different proprietors can often cause administrative problems for the licensing team. Because there is no definitive list of what amounts to acceptable confirmation of a change in ownership, the Council often receives documentation which does not contain the correct information, whose authenticity is questionable, is difficult to read or which becomes the subject of subsequent challenges/withdrawals.
- 4.39 In order to confirm the transfer from one person to another of the legal proprietorship of vehicles which are licensed by the Council, I am proposing, for the Licensing Committee to consider, to only accept alongside a formal written notification, either:
- (a) a copy of the tear-off slip from the V5; or
 - (b) a copy of the last sale receipt from the manufacturer/dealer of the vehicle; or
 - (c) the registered keepers log showing the new owner.

Minibuses and Modifications to Vehicles

- 4.40 Following the identification of concerns with specified minimum dimensions, uncertainties about the integrity of modifications to seating layouts and the provision of additional interior lighting in both new and existing licensed vehicles, views were sought on whether or not these types of modifications should continue to be permitted, and if so on what bases. The proposal is that all modified vehicles should have a voluntary individual vehicle assessment (VIVA) undertaken by the Driver and Vehicle Standards Agency (DVSA) prior to being presented to a testing station as well as before presentation to be licensed by the Council. All such vehicle applications must in future be accompanied by an appropriate VIVA certificate.

Hybrid Vehicles and Luggage Space

- 4.41 Comments have been sought on the continued need to have a defined luggage space requirement for private hire vehicles. At present, they must have a minimum of 300 litres of luggage space available for customer use. This can create problems for some hybrid-type vehicles as they cannot meet this requirement because of the additional space required for their battery cells. Also, it is recognised that for the significant number of journeys undertaken in private hire vehicles, luggage space is not necessarily needed or used. Furthermore, as a private hire vehicle has to be pre-booked, the need for luggage space could be specifically discussed at the time of the booking. The proposal therefore is to amend the amount of luggage space available for customer use in private hire vehicles from 300 litres to 200 litres.

Medicals

- 4.42 During the consultation process, a number of comments were received from the trade expressing concern about inconsistencies in the fees that they currently incur for medical examinations, and that this is likely to continue. Officers have increasingly found that they have had to challenge the veracity of a number of privately sourced medical certificates, and that only following such challenges will an appropriate certificate be provided. It is possible to provide for an in-house system, whereby future medical examinations are undertaken by the Council's Occupational Health Service to the requisite standard identified in paragraph 4.20(d), earlier, to ensure consistency of the examination process and also pricing. It is likely that the need to meet any such demand will require additional resourcing of that service, the details of which were not available when this report was drafted. I propose that members of the Licensing Committee should be invited to consider the merit in a proposal that this service is provided by the Council's in-house Occupational Health Service.

Resources

4.43 The success of any implementation of these proposals will require corporate investment to make the delivery of the service robust and resilient. Neither the Licensing Team nor the Legal Service, as currently staffed, are sufficiently resourced to meet the challenges that the proposed administrative process will generate. The additional full time and temporary resources required to implement the measures set out in this are report set out below.

- 1 x FTE Licensing Officer at approx. £25,000/year
- 1 x FTE Licensing Administrator at approx. £18,000/year
- 1 x FTE Apprentice at approx. £8,500/year
- 1 x FTE Lawyer at approx. £52,000/year
- 1 x FTE Licensing Policy Officer at approx. £35,000/year until 30 June 2018

Subject to Licensing Committee's decision in relation to paragraph 4.42, there may be other costs yet to be factored in beyond the scope of those detailed above.

4.44 The fundamental principle behind public authority licensing schemes is that they must be self-financing, and for that reason any 'profits' are ring-fenced, to be re-applied towards administering the scheme in future years. In practical terms, this means that any additional costs the Council may incur in introducing some or all of the proposals set out in this report will need to be met by the trade. There is no available budget provision to meet these costs and the Council's budget position is such that there are no plans to meet any additional costs itself.

Summary

4.45 For the reasons set out earlier, that the subjectivity and discretion inherent in the status quo and which gives rise to the potential for widely differing decisions to be made has been shown not to be in the public interest, those very same reasons mean that I do not consider it appropriate to recommend adoption of the First Proposal to Council.

4.46 In the absence of a mandate to me from Council to determine policy issues that do not impact on the administrative changes I was tasked to lead a review on, mean that those other matters consulted upon, and which are detailed from paragraph 4.28 of this report onwards, should be referred back to the Licensing Committee for determination.

4.47 My recommendation to Council is that the Second Proposal, alongside the introduction of the minimum application threshold and a point based administrative system should be adopted by the Council. In the interest of continuity and consistency, I recommend that I retain oversight of the transition process from the existing system to the new; there are several aspects of the threshold referred to that require developing, staffing and in some cases, procurement. The status quo should remain in place pending those issues being resolved but in any event the transfer should be affected by no later than 30 June 2017. Officers should be instructed to provide an update to Council, not later than 12 months after first implementation of these proposals, that considers amongst other matters the operational effectiveness of the measures introduced.

OTHER OPTIONS CONSIDERED

5.1 In the context of the reasons for the recommendations made, set out earlier in paragraphs 3.1 and 3.2, I do not consider that maintaining the status quo is an available option so that beyond otherwise proposing the status quo as a further alternative, no other option has been considered.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Janie Berry n/a n/a n/a John Tomlinson
For more information contact: Background papers: List of appendices:	Michael Kay, Head of Environmental Health and Licensing - 01332 641940 michael.kay@derby.gov.uk Olu Idowu, Head of Legal Services – 01332 643615 olu.idowu@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Consultation Questionnaire Appendix 3 – Consultation Results Appendix 4 – Additional Comments Received Appendix 5 – Summary of Additional Comments Received Appendix 6 – Correspondence from A2Z Licensing Appendix 7 – Correspondence from National Private Hire Association Appendix 8 – Correspondence from Licensed Driver Scott Baldwin Appendix 9 – Correspondence from ALPHA Trade Association Appendix 10 – Proposed Optional Delegation Scheme to Officers Appendix 11 – Proposed Penalty Points Scheme Appendix 12 – Equality Impact Assessment

IMPLICATIONS

Financial and Value for Money

- 1.1 Additional resources to implement any changes would be required which have been set out in the report.

Legal

- 2.1 None other than as set out within the report.

Personnel

- 3.1 Additional resources to implement any changes would be required which have been set out in the report.

IT

- 4.1 No significant implications are expected.

Equalities Impact

- 5.1 An Equalities Impact Assessment has been undertaken which has identified that the proposals set out in the report will not have any negative impacts on any particular equality groups.

Health and Safety

- 6.1 The report contains a number of proposals that aim to improve public safety and protect vulnerable children and adults.

Environmental Sustainability

- 7.1 None.

Property and Asset Management

- 8.1 None.

Risk Management

- 9.1 There would be significant reputational risk to Council in approving an ineffectual scheme that transfers decision making powers to officers.
- 9.2 There could be significant reputational risk to Council from taking no or limited action against processes and procedures identified in the public interest report as requiring improvement.

Corporate objectives and priorities for change

- 10.1 The proposals set out in this report address the corporate objectives of:
 - protecting vulnerable children, young people, adults and older people
 - promoting health and well-being
 - being more commercial
 - delivering our services differently
- 10.2 The proposals also meet the Council's core vision of being 'safe, strong and ambitious', and the aim to be a 'modern, flexible and resilient Council'.